

1 ORDINANCE O-2017-61

2 A BILL FOR AN ORDINANCE AMENDING TITLES 6, 9, 10, AND 15 OF THE
3 LONGMONT MUNICIPAL CODE ON MARIJUANA STORE REGULATION
4

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

6 Section 1

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

9 Section 2

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

11 CHAPTER 6.70 – MARIJUANA STORES

12 6.70.010. - Purpose and legislative intent.

13 Section 16 of Article XVIII of the Colorado Constitution, also commonly known
14 as Amendment 64 of 2012, authorizes a system of state licensing for businesses
15 engaging in the cultivation, testing, manufacturing, and retail sale of marijuana,
16 collectively referred to as “marijuana establishments” by the constitution.

17 Subsection 16(5)(f) of Article XVIII allows localities, within their respective
18 jurisdictions: to prohibit operation of marijuana establishments; to regulate the
19 time, place, and manner in which marijuana establishments may operate; and to
20 limit the total number of marijuana establishments. The authority of localities to
21 prohibit or regulate marijuana establishments within their respective jurisdictions,
22 including the authority to engage in local licensing of marijuana establishments, is
23 also reflected in various provisions of the Colorado Retail Marijuana Code, article

1 43.4 of title 12, C.R.S., and other provisions of state law and regulations. The
2 purpose of this chapter is to exercise the authority of the city to allow state-licensed
3 marijuana establishments to exist in Longmont in accordance with applicable state
4 laws and regulations as well as the additional local licensing requirements and other
5 restrictions set forth herein. This chapter is adopted pursuant to the aforesaid
6 constitutional and statutory authority, as well as the city's plenary authority as a
7 home rule city to adopt and enforce ordinances under its police power in order to
8 preserve the public health, safety, and general welfare.

9 6.70.020. – Definitions.

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

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

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

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

21 A. The licensee or applicant has violated, does not meet, or has failed to
22 comply with any of the terms, conditions, or provisions of any applicable state or
23 local law, or any rule and regulation adopted pursuant thereto, related to the

1 cultivation, processing, manufacture, storage, sale, distribution, testing, or
2 consumption of any form of marijuana;

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

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

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

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

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

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

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

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

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

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

18 *Marijuana establishment or marijuana store* means a facility licensed by the city
19 and state to operate in the city as a retail marijuana store, or a co-located retail
20 marijuana store and medical marijuana center, that distributes, dispenses, displays,
21 sells, or otherwise provides marijuana to consumers, patients, or caregivers as
22 authorized pursuant to section 16 of article XVIII of the Colorado Constitution and
23 other applicable state law.

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

- 4 A. Ever had a professional license denied, suspended, or revoked;
- 5 B. Ever had a business license denied, suspended, or revoked;
- 6 C. Ever surrendered, been denied, or had any type of marijuana-related
7 business license placed on an administrative hold, suspended, or revoked;
- 8 D. Ever been denied any type of marijuana-related business license;
- 9 E. Ever had a business temporarily or permanently closed for failure to comply
10 with any tax, health, building, fire, zoning, or safety law;
- 11 F. Ever had an administrative, civil, or criminal finding of delinquency for
12 failure to file or failure to pay sales or use taxes or any other taxes;
- 13 G. Ever been convicted of a felony or other offense involving a crime of moral
14 turpitude; or
- 15 H. Within the previous twelve months been indicted, charged with, or
16 convicted of any offense, whether a criminal felony, misdemeanor, petty offense,
17 or any local ordinance violation related to the cultivation, processing, manufacture,
18 storage, sale, distribution, testing, or consumption of any form of marijuana.

19 *Principal officer* means the chief executive officer, president, vice president,
20 secretary, treasurer, chief financial officer, chief operating officer, and executive
21 director.

22 *School* means a school whose site development plan would be encompassed within
23 the procedures of section 22-32-124(1) or (1.5), C.R.S. (2017).

1 6.70.030. – Relationship to state law.

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

9 6.70.040. – Marijuana licensing authority established.

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

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

21 C. Under no circumstances shall the authority approve any application for local
22 licensing of a marijuana establishment in circumstances where the state has failed
23 to act in accordance with section 16 of Article XVIII of the Colorado Constitution,

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

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

1 E. The city clerk or designee shall serve as the official secretary of the
2 authority, who shall provide the necessary notice of meetings and secretarial and
3 reporting services for the authority. The secretary shall receive all applications for
4 licenses and shall issue all licenses granted by the authority upon payment of fees
5 required. The secretary shall keep the electronic recordings of all licensing
6 authority hearings. The secretary shall transcribe or make arrangement for
7 transcription of such records whenever required. The authority may delegate any
8 administrative matter to the secretary.

9 6.70.050. – Licensing authorized.

10 The authority may issue only marijuana store licenses as authorized by state law.
11 No other types of marijuana establishment may be licensed or may operate in the
12 city. A marijuana store license shall act as a retail marijuana store license and also
13 as a medical marijuana center license under the restrictions described in section
14 6.70.220.

15 6.70.060. – License required.

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

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

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

4 D. A separate license shall be required for each specific business and for each
5 geographic location.

6 6.70.070. – Cap on licenses.

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

9 6.70.080. – Application acceptance periods.

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

18 B. Application window. In an announcement of a request for expression of
19 interest, the authority shall set the opening and closing dates and times during which
20 the authority will accept applications for a new license. These dates and times shall
21 be committed to the authority's discretion, to provide an orderly process. No
22 application for a license shall be considered for any location, including one outside

1 the city limits, unless the city receives a proper and complete application for a new
2 license within this window.

3 C. Notwithstanding the foregoing, the authority may extend or waive any
4 deadline or delay evaluation of applications to the extent necessary to receive
5 required application materials, fees, and approvals from the state licensing authority
6 for any application, so long as the applicant made application to the state licensing
7 authority for a state license within 30 days of the authority's announcement of the
8 request for expression of interest.

9 6.70.090. – Request for expression of interest.

10 The authority shall announce its first request for expression of interest as soon as it
11 determines it to be practicable. The authority may announce future requests for
12 expression of interest at future dates when fewer licenses are active than the cap
13 number, under the circumstances described in this chapter. The secretary of the
14 authority shall post notice of requests on the city's website. The secretary shall
15 specify the start and end date and time of the application period.

16 6.70.100. – Application requirements.

17 A. All applications for a license shall be submitted to the secretary of the
18 authority upon forms and in the manner provided by the authority and shall include
19 all materials required for a new license under state law and regulations. To the
20 extent any materials have been included with the applicant's state license
21 application and forwarded to the city by the state licensing authority, the authority
22 may rely upon the information forwarded from the state without requiring
23 resubmittal of the same materials to the authority. The authority may, in its

1 discretion, require additional documentation associated with the application,
2 including any other information that may be relevant, as may be necessary to
3 enforce the requirements of state law and this code.

4 B. Complete applications.

5 1. For purposes of this chapter, an application for a license shall not be
6 considered complete until the authority has (i) determined that all requirements of
7 the application have been provided to the city, (ii) received the local share of the
8 application fee from the state, except as described in paragraph (2), below, and (iii)
9 obtained all other information the authority determines necessary to make a
10 decision whether to approve or deny the license application, or approve it with
11 conditions.

12 2. Applications for locations outside the city, already licensed for retail
13 marijuana sales by the state licensing authority and proposed for annexation into
14 the city, need not include the local share of the state application fee. They shall,
15 however, in addition to the submittal requirements of section 6.70.110, include a
16 copy of the active state license(s), as well as all materials submitted to the state
17 licensing authority in application for such license(s) and the most recent renewal
18 thereof if any renewal applications have been made. Should such a local
19 application be selected for approval, the state licensing authority may require an
20 application for a change of location in order to revise the local jurisdiction. The
21 applicant may apply for such a transfer subsequent to final licensure and annexation
22 by the city.

1 C. All applications may be subject to disclosure under the Colorado Open
2 Records Act. Each application shall include a public version of the application,
3 with all information redacted that the city is prohibited from releasing under the
4 Act, in a format designated by the authority. The city reserves the right, however,
5 to release all records and parts of records required by the Act, even if the applicant
6 has proposed such records or parts of records for redaction. The selection division
7 shall consider, as a factor in its decision-making process related to the completeness
8 and forthrightness of the application, the extent to which the applicant has proposed
9 for redaction records or parts of records that are properly public and subject to
10 disclosure under the Act.

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

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

19 F. No person shall apply for more than one license in any location in the city.
20 No owner of any business applying for a license or in possession of a license within
21 the city may apply for, or be an owner of any other business entity applying for,
22 another license within the city.

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

4 6.70.105. – Locational requirements.

5 No application for a license or for a change of location shall be granted which
6 proposes a licensed premises within 250 feet of a residentially zoned area or within
7 1000 feet of any school serving students in any grade from kindergarten through
8 12th grade, inclusive.

9 6.70.110. – Submittal requirements for a new license.

10 Each application for a license shall include:

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

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

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

21 D. A site control plan, including:

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

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

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

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

9 E. A business plan, including the following:

10 1. A general description of the business, a market analysis, and a marketing
11 plan.

12 2. Details of overall management and operations including hours of operation,
13 curricula vitae of all principal officers and managers, and staffing plans, including
14 any specific commitments of the licensee toward staffing the establishment with a
15 diverse workforce of Longmont residents.

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

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

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

3 F. Security Plan. All licensees shall file a written security plan with the
4 authority. The security plan will be protected from public disclosure to the extent
5 provided under the Colorado Open Records Act, § 24-72-204(2)(a)(VIII), C.R.S.
6 The written security plan shall address, at a minimum, the following elements:

7 1. Evidence that the premises will comply with all security and video
8 surveillance requirements set forth in this charter, Rules 305 and 306 of the Code
9 of Colorado Regulations 1 CCR 212-2 (Retail Marijuana Code), and Rules 305 and
10 306 of the Code of Colorado Regulations 1 CCR 212-1 (Medical Marijuana Code)
11 if applicable;

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

15 3. A floor plan of the marijuana establishment detailing the locations of the
16 following:

17 a. All entrances and exits to the establishment;

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

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

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

- 1 e. The location of the digital video recorder and alarm control panel, including
2 the location of the off-site storage or network service provider for storage of the
3 required copies of surveillance recordings; and
- 4 f. Restricted and public areas.
- 5 4. The type of security training provided for, and completed by, establishment
6 personnel, including conflict resolution training and procedures for handling
7 violent incidents;
- 8 5. How the licensee intends to use and maintain an incident log;
- 9 6. The establishment's procedures for preventing the use of marijuana on the
10 licensed premises;
- 11 7. Security measures taken by the licensee to prevent individuals from entering
12 the limited access area portion of the licensed premises;
- 13 8. The licensee's closing procedures after the cessation of business each day;
- 14 9. The licensee's plan to prevent theft or the diversion of marijuana, including
15 maintaining all marijuana in a secure, locked room that is accessible only to
16 authorized persons;
- 17 10. The type of alarm system and outdoor lighting to be used by the licensee;
- 18 11. The licensee's procedures for accepting delivery of marijuana at the
19 establishment, including procedures for how it is received, where it is stored, and
20 how the transaction is recorded;
- 21 12. A copy of the licensee's security alarm system monitoring contract;
- 22 13. A lighting plan showing the lighting outside of the marijuana establishment
23 for security purposes and compliance with applicable city requirements;

1 14. A landscaping plan showing the landscaping outside of the marijuana
2 establishment for security purposes and compliance with applicable city
3 requirements;

4 15. A plan for disposal of any marijuana that is not sold; and

5 16. A plan for preventing underage persons from entering the premises.

6 G. A community outreach plan, including:

7 1. The applicant's history of community and neighborhood involvement with
8 other similar businesses;

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

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

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

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

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

1 J. Separation information. A description and graphic representation of the
2 location of the proposed licensed premises relative to the nearest residentially zoned
3 area and the nearest school serving students in any grade from kindergarten through
4 12th grade, inclusive.

5 K. A public version of the application, as described in section 6.70.100(C).

6 6.70.120. – Application review process for new licenses.

7 A. Initiation. The authority shall begin a process of selecting new licensees by
8 issuing a request for expression of interest. Within the timeframe set by such a
9 request, any person may submit an application for a license.

10 B. Comment. Following the application window described in subsection (A),
11 above, the authority shall open a public comment period of 21 days during which
12 any person may comment on the received applications for the record. The secretary
13 of the authority shall post notice of such comment period on the city’s website. The
14 authority may extend the comment period as necessary, in its determination, to
15 elicit robust public comment. The authority may restrict the form and manner of
16 public comment so as to provide for an orderly process and to foster the pertinence
17 of comments to the selection factors described in paragraph (C)(2), below. City
18 departments, including but not limited to the community services department, the
19 planning and development services department, the public safety department, the
20 finance department, and the city clerk’s office, may also file recommendations on
21 the applications with the authority. Members of these departments who are also
22 members of the selection division shall not participate in the formulation or
23 submission of such recommendations.

1 C. Selection.

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

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

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

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

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

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

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

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

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

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

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

13 j. The applicant's demonstrated ability to operate an effective and lawful
14 analogous business in the city;

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

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

19 m. The clarity and duration of the applicant's site control of the proposed
20 location;

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

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

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

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

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

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

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

13 E. Selection order. The authority shall issue a written order stating the
14 determinations of the selection division and a brief explanation of the basis thereof,
15 and awarding any conditional licenses as determined by the selection division.
16 Such licenses shall be considered approved, but shall not permit marijuana sales or
17 operations under this chapter until they are finalized as described below. The
18 secretary of the authority shall post selection orders online, shall notify the public
19 thereof by publication, and shall notify each affected applicant by certified mail at
20 the address on the application.

21 F. Land use review. No license shall become final until the director of
22 planning and development services, or designee, certifies to the authority that the
23 conditional licensee has received all necessary approvals under the land

1 development code (not including permits and approvals required under title 16 of
2 this code) to begin operating within the city as described in the application. As an
3 exception to the provisions of the land development code, decisions of the planning
4 and development services director on application approvals necessary to begin
5 operating within the city as described in the license application shall be final and
6 shall not be appealable to any city body, but shall be reviewable under Rule 106 of
7 the Colorado Rules of Civil Procedure.

8 G. Lapse.

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

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

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

19 H. Final license. Upon receiving the certification described in subsection (F)
20 for a conditional license, passage of a final inspection as described in section
21 6.70.230(K)(2), and receipt of all applicable fees due, the authority shall issue a
22 final license allowing a marijuana store.

23 6.70.130. – Lapse after licensure.

1 A. Should any licensed premises fail to open for business as a retail marijuana
2 establishment, with all necessary local permits approved, within six months of the
3 applicable lapse deadline described in section 6.70.120(G) or final licensure,
4 whichever is earlier, or should any licensed premises thereafter discontinue retail
5 marijuana operations for 35 days or more, the license shall lapse and be of no further
6 force and effect. The authority may confirm such lapse by order. No alleged delay
7 on the part of any city staff shall be a defense against lapse under this section.
8 Licensees are encouraged to secure building permits, certificates of occupancy, and
9 other municipal approvals as early as possible.

10 B. Exception for modification of premises. After receiving approval from the
11 authority for a modification of premises under section 6.70.180, the licensee may
12 discontinue retail marijuana operations for a period of six months from the date of
13 such approval without causing such license to lapse.

14 6.70.135. – Extensions of lapse deadlines due to hardship; requirement of due
15 diligence.

16 Whenever it appears that a conditional or final licensee will be unable to meet the
17 prescribed limitations of section 6.70.120(G) or 6.70.130, the licensee may seek an
18 extension of such deadlines from the authority. Any application for such an
19 extension shall include an affidavit describing the applicant's due diligence and
20 hardship, and shall be filed at least 35 days prior to the applicable deadline. The
21 applicant shall demonstrate to the authority the progress being made toward the
22 commencement of business at the licensed premises, the due diligence on the part
23 of the applicant, and the reasons why the premises have not been completed. The

1 authority shall consider the applicant's affidavit and, if satisfied that the applicant
2 is suffering a bona fide hardship and diligently making progress toward overcoming
3 it, shall extend the applicable deadline for an additional period. The additional
4 period shall not exceed one year, and shall be no longer than necessary to afford
5 relief. The authority shall not grant an extension for a self-imposed hardship.
6 Under no circumstances shall the authority grant more than two extensions to the
7 same deadline for any licensed premises.

8 6.70.140. – Hearings.

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

16 6.70.150. – Duty to supplement information.

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

22 B. An applicant or licensee has a duty to notify the authority in writing of any
23 pending criminal charge, and any criminal conviction of a felony or other offense

1 involving a crime of moral turpitude by the applicant, any owner, principal officer,
2 manager, or employee within 14 days of the event.

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

11 6.70.160. – Transfer of ownership and changes in business structure.

12 A. For the purposes of this section, a transfer of ownership shall also include
13 any reallocation of ownership or change in business structure necessitating an
14 application for transfer of ownership or change in business structure under state
15 law, including 1 CCR 212-2 Rule R 205. Any transfer of ownership shall be
16 governed by the procedures set forth for transfers of ownership under state law. No
17 such change of ownership may occur except upon the authority's approval of a local
18 application for the change. Any such application shall include all of the information
19 required by this chapter for all proposed owners for a license application. Upon
20 receipt of such application, the authority shall schedule a hearing thereon, and shall
21 notify the city manager of such hearing and afford city staff the opportunity to
22 comment on the application in writing or at the hearing. The authority shall conduct

1 the hearing and grant the application if the application is complete and meets the
2 following standards:

3 1. No person shall be permitted to become an owner of any license if that
4 person already is an owner of any license within the city.

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

8 3. All proposed owners' moral character, record, and reputation are
9 satisfactory to ensure safe, lawful, and effective management of the marijuana
10 establishment.

11 B. Time limitation on transfer of ownership.

12 1. In general. A transfer of ownership of any license issued pursuant to this
13 chapter shall be prohibited until two years have elapsed since the date the final
14 license is issued by the city.

15 2. Exceptions. The authority shall allow an exception to the general provision
16 of paragraph (1), above, if the application for transfer of ownership includes an
17 affidavit demonstrating:

18 (I) the death, or disability preventing management of the store, of an owner;

19 (II) that the change in ownership would result in continued ownership of the
20 licensee by at least fifty percent of owners, representing at least fifty percent of the
21 effective ownership of the licensee, included in the application for a new license
22 approved by the authority; or

1 (III) that the transfer of ownership is the result of the change in ownership of the
2 licensee company or the parent company of the licensee, and that in addition to the
3 licensed establishment, the sale encompasses at least one other retail marijuana
4 store or medical marijuana center, located outside the city and licensed by another
5 local jurisdiction.

6 6.70.170. – Change of location.

7 A. No license may be transferred to another location except upon approval of
8 an application for such transfer. The application shall include all of the submittal
9 materials required for an application for a new license. Upon receipt of such
10 application, the authority shall schedule a hearing thereon, and shall notify the city
11 manager of such hearing and afford city staff the opportunity to comment on the
12 application in writing or at the hearing. The authority shall conduct the hearing and
13 grant the application if the application is complete and the applicant proves that the
14 change of location will not negatively impact the neighborhood surrounding the
15 new location and will in fact benefit the community as a whole. This approval shall
16 be required in addition to any other approvals required by other provisions of the
17 municipal code, and such other municipal applications shall proceed under
18 generally applicable procedures including any appeal procedures. A granted
19 application shall allow the transfer on the conditions applicable to an award of a
20 new conditional license, including but not limited to the provisions of sections
21 6.70.120(F)-(H) and 6.70.130. All requirements and provisions related to renewal
22 and lapse of a license shall apply regardless of the initiation or progression of these
23 proceedings to change a license's location.

1 B. Time limitation on change of location.

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

5 2. Exception. The application for change of location may include an affidavit
6 describing a particular hardship preventing marijuana sales at the location. The
7 authority shall consider the applicant's affidavit and, if satisfied that the applicant
8 is suffering a bona fide hardship preventing marijuana sales at the location, and that
9 the hardship is not self-imposed, shall allow an exception to the general provision
10 of paragraph (1), above.

11 6.70.180. – Modification of premises or change of plan.

12 A licensee shall not make changes, alterations, or modifications to the licensed
13 premises, or practices related thereto, that materially or substantially alter the
14 licensed premises or the usage of the licensed premises from the plans originally
15 approved by the authority without submitting an application for such change,
16 alteration, or modification, and obtaining the approval of the authority to make such
17 proposed modifications. Upon receipt of such application, the authority shall
18 schedule a hearing thereon, and shall notify the city manager of such hearing and
19 afford city staff the opportunity to comment on the application in writing or at the
20 hearing. The authority shall conduct the hearing and shall grant the application if
21 the applicant proves that the modification will not negatively impact the
22 surrounding neighborhood or the community as a whole. This approval shall be
23 required in addition to any other approvals required by other provisions of the

1 municipal code, and such other municipal applications shall proceed under
2 generally applicable procedures including any appeal procedures.

3 6.70.190. – Terms of licenses; renewals.

4 A. Beginning with the date of approval and conditional licensure, any license
5 issued pursuant to this chapter shall be valid for a period of one year.
6 Notwithstanding anything contained in this chapter, a licensee has no vested right
7 to the renewal of a license, and no property right in the renewal of a license.
8 Licenses that are the subject of a suspension, a disciplinary action, a lapse deadline
9 extension, or any other proceeding under this chapter are subject to the
10 requirements of this section. Licenses that are not timely renewed shall expire. The
11 authority shall take no action on any renewal of any license except as described in
12 this section.

13 B. A licensee may apply for the renewal of an existing license by filing an
14 application for renewal on forms provided by the authority not less than 28 days
15 but not more than 91 days prior to the expiration of the license. An application for
16 renewal will only be accepted if it is accompanied by the requisite fees and any
17 supplemental materials required by the authority. If the licensee fails to apply for
18 renewal at least 28 days prior to the expiration of the license but does apply prior
19 to the expiration of the license, the authority may process the renewal application
20 if the applicant submits a late filing fee, in addition to the renewal application fee,
21 at the time of submittal of the renewal application. The authority may elect to
22 administratively continue the license beyond the expiration date while a renewal
23 application is pending, but in no event shall the license be administratively

1 continued for more than 63 days. Notwithstanding the foregoing, the licensee may
2 also apply for license renewal early if necessary to align the local license renewal
3 with any state license renewal process.

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

8 D. Grounds for denial. The following constitute grounds for denial of a license
9 renewal application:

10 1. The authority may deny a license renewal for good cause.

11 2. The authority shall not renew any license that has lapsed.

12 3. The authority shall not renew any license until the licensee has paid the
13 annual operating fee, if any has been established by the city council, for the
14 following year and until all other taxes, fees, fines, penalties, and interest assessed
15 against or imposed upon such licensee and due to the city in relation to the licensed
16 business are paid in full.

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

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

22 E. Upon receipt of a renewal application, the authority shall forward the
23 application to city manager and give city staff an opportunity to comment on the

1 application. If necessary in the authority's determination, the authority may hold a
2 hearing on the application. Administratively or following such hearing, the
3 authority shall issue a decision on the renewal application. Approval of an
4 application for renewal shall renew the license for a period of one year from the
5 original expiration date of the prior licensure or license renewal period, as
6 applicable.

7 6.70.200. – Licensing new premises upon deactivation of a license.

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

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

17 C. After such exhaustion, the authority shall convene the selection division,
18 and the selection division shall determine whether the applications it has on file in
19 response to the most recent request for expression of interest are recent enough that
20 any such application, if approved, would reasonably be capable of complete
21 implementation by the applicant despite the passage of time. If so, the selection
22 division shall proceed directly to the selection phase of the application review
23 process, as described in section 6.70.120(C). If not, the selection committee shall

1 open a new selection phase with a request for expression of interest, followed by a
2 comment period, as described in section 6.70.120. In either case, the selection
3 committee shall continue the process for awarding new licenses under the
4 remaining procedures described in section 6.70.120.

5 6.70.210. – Fees.

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

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

13 6.70.220. – Medical marijuana center operations permitted under license.

14 Each license granted under this chapter shall constitute a local license for a retail
15 marijuana store, and shall also constitute a local license to operate a medical
16 marijuana center at the licensed location under article 43.3 of title 12 of the
17 Colorado Revised Statutes provided that the licensed location continues to make
18 retail marijuana available to the public at the location. Lapse, suspension,
19 revocation, or failure to obtain a necessary renewal of a local license under this
20 chapter, including by reason of failure to sell retail marijuana to the public upon the
21 licensed premises, shall constitute good cause for the refusal of the city to allow
22 medical marijuana center operations to continue under the license. The licensee
23 must comply with all state laws and regulations governing the sale of retail

1 marijuana at the licensed premises, and, if the licensee also sells medical marijuana,
2 all state laws and regulations governing the sale medical marijuana at the licensed
3 premises. Adding or removing medical marijuana center operations from a
4 licensee's plans shall constitute a change of plan under section 6.70.180.

5 6.70.230. – Operational requirements.

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

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

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

21 C. Video surveillance. Marijuana establishments are required to install a video
22 surveillance system satisfying the minimum standards described below, in addition

1 to the state requirements set forth in Rule 306 of 1 CCR 212-2 (Retail Marijuana
2 Code):

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

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

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

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

17 D. Security alarm system. All marijuana establishments shall install, maintain,
18 and use a professionally monitored security alarm system meeting the following
19 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
22 building tenants, roof hatches, skylights, and storage rooms containing safes or
23 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
5 power 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
8 company monitoring the alarm, including contact information, and shall be updated
9 within 72 hours 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
12 during any inspection of the facility.

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

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

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

1 H. Hours of operation. Marijuana establishments may only be open to the
2 public between the hours of 8:00 a.m. and 10:00 p.m., daily. No sale, delivery, or
3 other distribution may occur upon the premises outside of those hours. Hours of
4 operation must be posted at 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
8 managed by any person other than the licensee, with the exception of a manager
9 registered with the authority. Such licensee or manager shall be on the premises
10 and responsible for all activities within the licensed business during all times when
11 the business is open. In the event the licensee intends to employ a manager who
12 was not identified on the license application, the licensee shall report the name of
13 such manager to the authority, and such manager shall submit to the authority, at
14 least 28 days prior to serving as a manager, an application containing all of the
15 information required for a manager by this chapter on a license application, and
16 shall submit the requisite fees. A licensee shall report to the authority any change
17 in managers at least 28 days prior to employing an additional manager, and no more
18 than five days after a manager is released from such position. Notwithstanding the
19 foregoing, when a licensee reports to the authority as a new manager a person who
20 holds an active occupational license from the state licensing authority as a key
21 employee and provides proof thereof in the application, the person may begin
22 serving as a manager of the licensee immediately and until such time as the
23 authority acts on the application. Any timely report of a change in manager may be

1 approved administratively. However, after a hearing, the authority may refuse to
2 accept any person's registration as a manager upon a determination that the
3 person's moral character, record, or reputation is unsatisfactory to ensure safe,
4 lawful, and effective management of the marijuana establishment.

5 K. Inspections.

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

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

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

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

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

13 L. Reporting of source, quantity, and sales. The records to be maintained by
14 each marijuana establishment shall include the source and quantity of any
15 marijuana distributed, produced, or possessed within the premises. Such reports
16 shall include the following information, at a minimum, for both acquisitions from
17 wholesalers and sales transactions:

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

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

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

1 Each year, with the licensee's application for license renewal, the licensee shall
2 submit a report to the authority with this information for the prior operational year.

3 The secretary of the authority may designate the form of the report.

4 M. Reporting of criminal activity. Reports of all criminal activities or attempts
5 of violation of any law at the marijuana establishment, including the curtilage
6 surrounding the licensed premises and the designated parking area, or related in any
7 way to the marijuana business, shall be reported to the city department of public
8 safety by the licensee within 12 hours of occurrence. Additionally, any violation of
9 any law by any licensee, owner, manager, principal officer, or applicant of the
10 marijuana business shall be reported to the authority within 72 hours.

11 6.70.240. – Unlawful acts.

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

14 B. It shall be unlawful for any person to engage in any form of business or
15 commerce or activity involving the cultivation, processing, manufacturing, storage,
16 sale, distribution, testing, or consumption of any form of marijuana other than those
17 forms of businesses and commerce and activities expressly contemplated under the
18 applicable license by state law and this chapter.

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

21 D. It shall be unlawful for any person who is the holder of a license issued
22 pursuant to this chapter or any manager or employee of such licensee to fail to
23 immediately report to the department of public safety any disorderly conduct or

1 criminal activity occurring at the location, on the premises, or within the licensed
2 premises set forth on the license. For the purposes of this subsection, the terms
3 “location” and “premises” shall have that meaning and definition set forth in C.R.S.
4 § 12-43.4-103, and the term “licensed premises” shall have the meaning and
5 definitions set forth in this chapter, and the term “report” shall mean to either:

- 6 1. Immediately, verbally, and directly in person notify any on-site uniformed
7 police officer;
- 8 2. Place and complete a phone call to the non-emergency dispatch telephone
9 number for the department of public safety; or
- 10 3. Place and complete a telephone call to the emergency 911 operator.

11 Contacting individual officers out of uniform or not directly on the licensed
12 premises shall not suffice as a report within the meaning of this subsection.

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

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

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

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

1 I. It shall be unlawful to possess extraction vessels, or butane (except within
2 lighters or butane torches designed for personal use), propane, compressed CO₂,
3 ethanol, isopropanol, acetone, heptane, hexane, or any other volatile materials used
4 in the production of solvent-based marijuana concentrate, on the licensed premises.

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

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

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

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

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

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

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

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

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

6 6.70.250. – Disciplinary actions, sanctions, and civil penalties.

7 A. A violation of any of the provisions of this chapter, other applicable
8 provisions of this code, any applicable state law, or any of the rules or regulations
9 adopted pursuant thereto related to the cultivation, processing, manufacture,
10 storage, sale, distribution, testing, or consumption of any form of marijuana, or any
11 violation of any terms and conditions of a license issued by the authority pursuant
12 to this chapter, may be grounds for additional terms and conditions being placed
13 upon a license, for the denial of an application to renew a license, or for the
14 suspension or revocation of a license.

15 B. If the authority has probable cause to believe that a licensee has violated
16 any provision of this chapter or engaged in conduct which imposes an undue risk
17 to the public health, safety, or welfare, the authority may enter an order for the
18 summary suspension of such license, pending further investigation and hearing. No
19 summary suspension shall be for a period exceeding 30 days.

20 C. The authority may, after notice and hearing, impose a civil penalty, or
21 suspend or revoke any license if the authority finds that:

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

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

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

7 4. The licensee has failed to comply with his or her duty under section
8 6.70.150 to supplement the license application;

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

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

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

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

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

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

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

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

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

15 14. The odor of marijuana is perceptible to an ordinary person at the exterior of
16 the building at the licensed premises or is perceptible within any space adjoining
17 the licensed premises.

18 D. The authority, in its sole discretion, may permit the licensee to pay a fine in
19 lieu of license suspension or in lieu of part of the duration of a license suspension.
20 Any fine imposed in lieu of a suspension by the authority shall not be less than
21 \$500.00 and not more than \$100,000.00.

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

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

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

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

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

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

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

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

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

14 6.70.260. – Criminal penalties.

15 Violation of any provision of this chapter or commission of any unlawful act
16 described in section 6.70.240 shall be punishable under the general penalty of this
17 code as described in section 10.02.020. Each and every day a violation of the
18 provisions of this chapter is committed, exists, or continues shall be deemed a
19 separate offense.

20 6.70.270. – Other remedies.

21 The city is specifically authorized to seek an injunction, abatement, restitution, or
22 any other remedy necessary to prevent, enjoin, abate, or remove any violation or
23 unlawful act under this chapter, and any remedies provided for herein shall be

1 cumulative and not exclusive and shall be in addition to any other remedies
2 provided by law or in equity.

3 6.70.280. – Rules and regulations.

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

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

10 Section 3

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

12 9.60.047. – Exception for licensed marijuana stores.

13 As an exception to the prohibitions provided in section 9.60.040 and 9.60.045, it
14 shall not be unlawful for any person to operate, cause to be operated, or permit to
15 be operated a marijuana store licensed by the city under the provisions of chapter
16 6.70 of this code, but only to the extent that such operations are in full compliance
17 with such chapter and any conditions of the license.

18 Section 4

19 The Council amends section 10.36.110 of the Longmont Municipal Code, by adding
20 italicized material, to read as follows:

21 10.36.110. - Possession or consumption prohibited.

22 A. It is unlawful for a person over the age of 21 years to possess between one
23 and two ounces of marijuana. It is unlawful for a person under the age of 21 to

1 possess two ounces or less of marijuana. The court shall punish offenders by a fine
2 of not more than \$100.00, plus applicable court costs.

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

7 *C. As an exception to the prohibition in subsection (A) on possession by a*
8 *person over the age of 21 years of between one and two ounces of marijuana, it*
9 *shall not be unlawful for any person to operate, cause to be operated, or permit to*
10 *be operated a marijuana store licensed by the city under the provisions of chapter*
11 *6.70 of this code, but only to the extent that such operations are in full compliance*
12 *with such chapter and any conditions of the license.*

13 Section 5

14 The Council amends Table 15.04-A (“Table of Principal Uses by Zoning Districts”)
15 within section 15.04.010 of the Longmont Municipal Code by adding italicized material, to read
16 as follows:

Use Classification and Specific Principal Uses	Zoning District																Additional Regulations (Apply in All Districts Unless Otherwise Stated)									
	E1	E2	R1	R2	R3	MHR	LER	RMD	MD-O	C	CR	CB	D	BL	M	I	G	P	A	M	U	R	P			
...																										
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.																										
...																										
<i>Marijuana stores licensed under chapter 6.70</i>																										24
...																										

1

2 Section 6

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

5 24. Residential protection standards.

6 ...

7 b. Limitations on uses. . . .

8 ...

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

11 ...

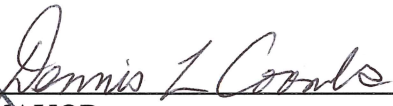
1 Section 7


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 Introduced this 26th day of September, 2017.

6 Passed and adopted this 10th day of October, 2017.

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MAYOR


ATTEST:



CITY CLERK

19 NOTICE: THE COUNCIL WILL HOLD A PUBLIC HEARING ON THIS ORDINANCE AT
20 7:00 P.M. ON THE 10TH DAY OF OCTOBER, 2017, IN THE
21 LONGMONT COUNCIL CHAMBERS.

22
23

24 APPROVED AS TO FORM:

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ASSISTANT CITY ATTORNEY

10/3/17

DATE

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30
31



PROOFREAD

10/3/17

DATE

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APPROVED AS TO FORM AND SUBSTANCE:

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ORIGINATING DEPARTMENT

10/11/17

DATE

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41

CA File: 10426