



## STATEMENT OF VISION

*Lafayette's panoramic view of the Rocky Mountains inspires our view into the future. We value our heritage, our unique neighborhoods, a vibrant economy and active life-styles. We envision a future that mixes small town livability with balanced growth and superior city services.*

**MARCH 4, 2014**

# A G E N D A

## **5:30 PM CITY COUNCIL WORKSHOP**

- I. Comprehensive Plan (1 hour)
- II. 2014-15 Council Goals (30 min.)

## **7:00 PM CITY COUNCIL MEETING**

- I. **OPENING OF REGULARLY SCHEDULED MEETING**
  - Call to Order
  - Pledge of Allegiance
  - Roll Call
- II. **PUBLIC INPUT (AFTER 6:30 PM)**
  - A. ITEMS FROM THE PUBLIC NOT ON THE AGENDA (The public may address any City business, including Consent Agenda items, for which a public hearing is not scheduled later in the meeting.)
- III. **PRESENTATION**
  - B. Lafayette Finance Department / Certificate of Achievement for Excellence in Financial Reporting / Government Finance Officers Associations of the United States and Canada
- IV. **CONSENT AGENDA**
  - C. Minutes / Council Workshop Meeting of February 18, 2014
  - D. Minutes / Regular Council Meeting of February 18, 2014
  - E. Second Reading / Ordinance No. 04, Series 2014 as Amended / Enacting Article III of Chapter 56 of the Code of Ordinances pertaining to Retail Marijuana Business Licensing
  - F. Second Reading / Ordinance No. 05, Series 2014 as Amended / Repealing and Reenacting in its Entirety Article II, Chapter 56, of the Code of Ordinances pertaining to Medical Marijuana Business Licensing.
  - G. Second Reading / Ordinance No. 06, Series 2014 / Amending Chapter 70 of the Municipal Code Regarding Nuisances pertaining to Residential Marijuana Cultivation
  - H. Resolution No. 2014-13 / Establishing Fees for Licensing Retail Marijuana Operations and Amending Fees for Licensing Medical Marijuana Businesses

- I. Resolution 2014-14 – Amending Golf Course Green Fees
- J. Contract / Outlot B Greenlee Reservoir Drainage Improvement / Dan’s Custom Construction
- K. Informational Staff Report / Curbside 3-Cart Pay-As-You-Throw Program
- L. Purchase Orders and Amendments

**V. COUNCIL APPOINTMENTS**

- M. Senior Advisory Board

**VI. COUNCIL PROCLAMATIONS**

- N. March / Nutrition Month in the City of Lafayette

**VII. STAFF REPORTS**

- O. City Attorney’s Report
- P. City Administrator’s Report

**VIII. COUNCIL REPORTS**

- Q. Remote Attendance at Council Meetings

**IX. ADJOURN**



COMMUNITY DEVELOPMENT DEPARTMENT

## STAFF REPORT

To: Gary Klaphake, City Administrator  
From: Karen Westover, Planning Manager  
Date: February 25, 2014  
Subject: Workshop - Comprehensive Plan Update

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The current Comprehensive Plan was adopted in 2003. Lafayette's Comprehensive Plan is a statement of how the community views itself, what the City envisions for the future, and the actions the City will take to implement the City's vision and goals. It is a guiding document which provides the framework for zoning and Code regulations. A technical update to the 2003 Comprehensive Plan was directed by City Council and conducted internally by City staff. The heart of the Comprehensive Plan is the Goals and Policies section and the Land Use Map. The Goals and Policies were reviewed by City boards, commissions and committees as well as City departments and the public. The Planning Commission held nine meetings on the plan's Goals and Policies including site visits of the parcels labeled "Mixed Use" in the 2003 Comprehensive Plan. Additionally, the Planning Commission hosted an open house and two public hearings on the proposed update. City Council also held a workshop in May 2013 to review the Goals and Policies Section. Information for this update was also collected from the most recent Community Survey (2012), Census (2010), Denver Regional Council of Government (DRCOG), the Downtown Vision Plan (2010), the CDOT 2013 Planning Environmental Linkage (PEL) Study, and the Parks, Recreation, Open Space, & Trails (PROST) Master Plan (2013). The objective of this update is to bring the 2003 Comprehensive Plan current with existing and projected conditions. This update process is not an extensive re-write of the entire plan as it retains much of the information and vision of the 2003 Plan. The Comprehensive Plan is divided into four Sections. Complete draft versions of all four sections and the maps within the update can be viewed by clicking on the links at the end of this memo. Below is a description of the major changes to each Section:

### Section 1 – Introduction

The Introduction speaks to the purpose of the Comprehensive Plan, the legislative authority, the update process and the relationship to other plans and documents. No changes are proposed for the Purpose, Legislative Authority or Update Process subsections. The relationship to other plans has been updated with functional plans that exist to date. A new subsection, B, has been added that outlines the 2013 technical update process and highlights the major changes to the plan, specifically the Mixed-Use parcels that are included in the Goals and Policies Section.

### Section 2 Goals and Policies

The Goals and Policies Section includes goals that are a desired ideal or a value and policies that provide a broad framework for guiding governmental actions and decision making. Some of the key updates are found in the Land Use and Development, Community Character, Economic Development, Housing and Transportation sections. Changes in the Transportation section are in response to the 2013 CDOT PEL Study, the Boulder County Transit Service Enhancement Plan and the delay to the FasTracks plan. The Housing section has been updated with current housing information and references to the Housing Study conducted in 2001 have been removed. The Downtown Vision Plan completed in 2010 has been incorporated into the Community Character section. Under the Economic Development section, a discussion regarding Creative Districts and clean energy has been added and the Tourism segment has been updated. Additionally, the results

of the PROST Master Plan directly influenced the Goals and Policies in the Parks, Recreation, Open Space and Trails section.

Under the Land Use and Development section, the main focus is the change to the Mixed-Use Parcels. The existing Land Use map identifies 13 parcels that were anticipated to be developed with a mix of uses. Each parcel was assigned a prescriptive ratio of what type of land use would be required as part of the overall development. These ratios do not necessarily reflect market conditions or result in development that is compatible with surrounding land uses. During the summer of 2012, the Planning Commission did an on-site visit to each Mixed-Use Parcel and conducted a SWOT (Strength, Weakness, Opportunity, Threat) analysis. The Planning Commission also completed a visioning exercise by discussing potential developments of each parcel. While mixed-use is still desired for most parcels, some parcels were identified as suitable for solely commercial use and other parcels are now governed by approved development plans. As a result of the analysis, seven parcels are proposed as a specific land use designation such as commercial or reflect a land use designation consistent with an approved development plan. The remaining six parcels have been identified as Opportunity Parcels on the updated Land Use map. Under Policy C.2.1, a narrative description and list of development considerations are provided. This approach is a combination of the SWOT analysis, visioning and scenario planning techniques.

The existing Comprehensive Plan notes that properties designated on the Land Use map as “Proposed City Open Space/Park” also have an underlying land use designation. In the event that the City of Lafayette does not acquire or otherwise preserve these areas as open space/park, the underlying land use will prevail. These areas have been identified for acquisition as open space/park land. The identification and prioritization of open space and parks should be maintained by the Parks, Open Space and Golf (POG) Department and be reflected in the PROST Master Plan rather than shown on the Land Use map. A new section has been added, called Environmental Sustainability which includes many policies from the existing Environmental Quality and Natural Resources section. This new section also reflects additional comments from various boards, committees, commissions, City staff and City Council.

### Section 3 Implementation Matrix

Staff reviewed the policies proposed with the 2013 technical update and selected action policies to be included in the implementation matrix. The 2003 Implementation Matrix listed a time line with each action policy. Since the 2003 plan was adopted, staff has found that priorities change and are sometimes fluid depending on current circumstances. Additionally, the budget available to implement the policies also changes. Rather than assign a priority value or time line, it will be more effective to assign each policy to a department that will be responsible to carry out the implementation of that policy. A statement has been added at the end of the matrix that an annual status report will be presented to the Planning Commission and City Council regarding the implementation of the plan’s Goals and Policies.

### Section 4 Supporting Information and Documents

Most of the information provided in this section was generated by the consultants that developed the 2003 plan. The City conducted this update in-house and did not contract with outside consultants to update the market analysis, growth and development trends and fiscal analysis of the land use plan. Staff did update the Present Day Lafayette under the History subsection by adding some changes that have occurred since 2003. Also a summary of the Planning Commission’s meetings and public outreach conducted for the 2013 Technical Update has been added to subsection E, Public Outreach.

Links: ● [2013 Acknowledgements](#)

● [2013 Update Section 1](#)

● [2013 Update Section 2](#)

● [2013 Update Section 3](#)

● [2013 Update Section 4](#)

# City of Lafayette City Council Goals 2014-2015

Progress Report:

## Statement of Vision

*Lafayette's panoramic view of the Rocky Mountains inspires our view into the future. We value our heritage, our unique neighborhoods, a vibrant economy and active life-styles. We envision a future that mixes small town livability with balanced growth and superior city services.*

## **Planning**

### **Goal Statement:**

A. Develop new, and review ongoing, major planning initiatives.

### Objectives:

**A.1** Develop new energy sustainability plan with emphasis on the private sector.

*Analysis:* Staff will prepare a request for proposals (RFP) for the new energy sustainability plan. The RFP will recap progress made on energy efficiency by the City, new opportunities for the City and emphasize new strategies to engage the private sectors.

*Timeline:* 2<sup>nd</sup> quarter 2014 RFP will go out; 3<sup>rd</sup> quarter 2014 interview and select consultant; 4<sup>th</sup> quarter 2014 plan to be submitted.

*Measurement:* Plan present to, and approved by, Council.

*Progress:*

*Assigned to:* Gary Klaphake, City Administrator and Curt Cheesman, Director of Recreation, Senior Services, Facility and Energy Management

**A.2** Revisit the Historical Preservation Board's concerns.

*Analysis:* In June 2013, the Historic Preservation Board and the City Council held a joint meeting to discuss the HPB's concerns regarding "demolition by neglect". Options for reducing demolition by neglect of 50 year old plus properties included: grants for repair and maintenance; low interest loans for maintenance; monetary rewards for land-marking; educational programs; and a possible sales tax for funding of historic preservation activities. In July 2013 the HPB requested \$20,000 to implement preservation grants and education/outreach/media campaigns. The 2014 budget included \$3,000 for education/outreach/media campaigns.

*Timeline:* 2<sup>nd</sup> quarter of 2014

*Measurement:* Conduct a workshop with the Historic Preservation Board and City Council to revisit and discuss the Boards goals for preservation.

*Progress:*

*Assigned to:* Karen Westover, Planning Manager and Phillip Patterson, Community Development Director

**A.3 Update the Water Master Plan**

*Analysis:* Compile all information, data and process to describe current status of the Water Master Plan. Define strategy and tactics to achieve goals of the Water Master Plan. Update components of Plan accordingly.

*Timeline:* 2<sup>nd</sup>/3<sup>rd</sup> quarter 2014 – Northern Water Conservancy District meetings and tour. 1<sup>st</sup> quarter 2105 – updated plan.

*Measurement:* Schedule meeting with new city council members and the NWCD and schedule tour of facilities. Present updated Plan to city council at a workshop, obtain council approval of updated Plan.

*Progress:*

*Assigned to:* Doug Short, Public Works Director

**A.4 Examine funding strategies for State Highway 7 improvements**

*Analysis:* Review the Planning & Environmental Linkage (PEL) Study Final Report for SH7, once published. Review the DRCOG TIP process and determine how Lafayette could position itself to secure funding of SH7 improvements.

*Timeline:* 1<sup>st</sup> Quarter 2015

*Measurement:* Present findings to council at a workshop.

*Progress:*

*Assigned to:* Doug Short, Public Works Director

**A.5 Study the concept of a satellite library.**

*Analysis:* Update demographic information, including city growth trends. Document and analyze current library use patterns; identify unserved/underserved areas, groups, and service needs. Take input from community stakeholders. Gather information on satellite approaches used in other communities on the Front Range and in other parts of the country. Identify models that fit our needs and resources. Recommend strategies for developing satellite services, with emphasis on strategic plan goals, including programs, services, and staffing. Prepare cost estimates.

*Timeline:* 3<sup>rd</sup> quarter 2014

*Measurement:* Prepare report and present findings to council at a workshop.

*Progress:*

*Assigned to:* Betsy Stroomer, Library Director

**Economic Development**

**Goal Statement:**

**B.** Recruit and encourage new economic activity to increase sales tax revenue and the number of jobs in the community.

**Objectives:**

**B.1** Manage a development plan for the southwest corner of Highway 287 and Arapahoe Road.

*Analysis:* The City has the following in place on the above stated intersection of Highway 287 and Arapahoe Road:

1. CDOT approval of access plan for Highway 287 and Arapahoe Road;
2. Annexation of Highway 287 right-of-way north to Goosehaven Reservoir;

3. Optioned out of the “Super” IGA;
4. Pre-annexation agreement on the Weems property;
5. Amended growth limitations in Charter;
6. Market site (West Ridge) annexed and City has ownership of 4.2 acres;
7. “Pillow tax” previously approved for potential hotel development;
8. 2014 budget includes the extension of water and sewer services to the site;
9. East Central Boulder County IGA will sunset on December 21, 2014 allowing City to annex the site.

*Timeline:* 3<sup>rd</sup> quarter of 2014 all pre-annexation agreements approved; 1<sup>st</sup> quarter 2015 annexation of the 80 acre Weems property and the 35 acre Tebo property.

*Measurement:* Above stated annexation approvals.

*Progress:*

*Assigned to:* Gary Klaphake, City Administrator and Phillip Patterson, Community Development Director

**B.2** Encourage new businesses to locate in Lafayette and encourage the expansion of existing businesses.

*Analysis:* Solicit businesses to locate in Lafayette. Staff will assist, organize and incentivize new businesses that produce sales taxes and increase the number of primary jobs. Weekly meetings will be held with key staff to monitor and coordinate these activities.

*Timeline:* Ongoing

*Measurement:* Increase sales tax and/or jobs.

*Progress:*

*Assigned to:* Gary Klaphake, City Administrator and Phillip Patterson, Community Development Director

**B.3** Support the Lafayette Urban Renewal Authority (LURA) Downtown Vision Plan (2011

*Analysis:* In March 2012, City Council amended the Urban Renewal Plan to allow for a separate urban renewal authority board. The Plan was also amended to require the Authority to present its annual budget to Council for the purpose of securing any comments or suggestions prior to the Authority’s adoption of the budget. Additionally, prior to undertaking any project for which the cost exceeds 40% of the budgeted revenues of the Authority, the Authority must obtain Council’s approval. To further the vision of the Downtown Plan, in 2014-2015, the Authority plans on adding more seating at Festival Plaza, replacing the Old Town signage at Highway 287 and Baseline Road, and continue working towards private-public partnerships for the downtown core, including additional public parking agreements.

*Timeline:* Ongoing

*Measurement:* Improvements installed and/or investments made in the downtown corridor.

*Progress:*

*Assigned to:* Jenn Ooton, Executive Director, Lafayette Urban Renewal Authority

## **Communications / Outreach**

### **Goal Statement:**

C. Continue communication channels and outreach programs with other governmental entities and the Lafayette community.

### **Objectives:**

**C.1** Schedule meetings with other governmental entities.

*Analysis:* Staff will schedule meetings with other governmental entities according to mutual interests and timely issues.

*Timeline:* On-going throughout 2014 and 2015.

*Measurement:* Completed meetings.

*Progress:*

*Assigned to:* Susan Koster, City Clerk

**C.2** Review qualifications for serving on a city board. Conduct a meeting with all boards, commissions and committees to foster communication between these groups.

*Analysis:* Staff will review and summarize the qualification requirements. The purpose and mission of each board, commission and committee will be reviewed and summarized for use by Council at the all boards meeting.

*Timeline:* Board qualifications – 2<sup>nd</sup> quarter 2014. Boards and commission meeting – 4<sup>th</sup> quarter 2014.

*Measurement:* The qualification requirements will be reviewed with council at a workshop. Conduct the all boards/commissions meeting.

*Progress:*

*Assigned to:* Susan Koster, City Clerk

**C.3** Support Lafayette's Quasquicentennial (125 year) observance.

*Analysis:* Establish a team consisting of members from each city department to plan events. Identify a realistic number of activities to be planned, managed, and implemented. Develop strategies for ensuring city wide involvement by utilizing existing marketing and PR avenues to make residents awareness of events and programs.

*Timeline:* 1<sup>st</sup> Quarter 2014 – 3<sup>rd</sup> Quarter 2014

*Measurement:* By April 15, 2014 develop list of events to occur in September 2014. Begin intensive public awareness campaign for Quasquicentennial events/programs.

*Progress:*

*Assigned to:* Susan Booker - Cultural Resources Coordinator, Debbie Wilmot - Public Information, Karen Westover - Planning Manager, Susan Koster – City Clerk, Jenn Ooton – LURA Executive Director and Phillip Patterson, Community Development Director

## **Finance**

### **Goal Statement:**

D. Review long term planning of capital improvement projects funding (CIP).

Objectives:

**D.1** Update the Capital Improvement Plan to include a Community Center and Mary Miller Theater upgrades.

*Analysis:* A critical part of the annual budget process is the review of proposed capital improvements and related maintenance. Depending on the priority of each project, appropriate funding must be determined before inclusion in the budget, as well as the impact on other departments and ongoing maintenance.

*Timeline:* 3<sup>rd</sup> Quarter 2014.

*Measurement:* Completion of plan and scheduling of Council workshop, along with implementation in the budget process.

*Progress:*

*Assigned to:* Wade Nickerson, Finance Director

**D.2** Prepare a forecast including revenues that support City services and programs.

*Analysis:* With limited revenues and continued increases in costs, the City will need to identify which services and programs are critical. Along with determining the critical costs, the City will need to identify potential new sources of funding.

*Timeline:* 3<sup>rd</sup> Quarter 2014.

*Measurement:* Completion of the forecast and scheduling of Council workshop.

*Progress:*

*Assigned to:* Wade Nickerson, Finance Director

**D.3** Review opportunities to secure grants to supplement city programs and services.

*Analysis:* Determine the number of grants currently being applied for within the City, including those submitted on behalf of City Boards and Commissions; calculate the amount of staff time spent on writing grants, and calculate the amount of grant funding received by the City. Evaluate if it is feasible for staff to seek more grants and if so, what additional resources are needed.

*Timeline:* 3<sup>rd</sup> Quarter

*Measurement:* Schedule workshop with Council to review evaluation.

*Progress:*

*Assigned to:* Susan Booker, Cultural Resources Coordinator, and Phillip Patterson, Community Development Director

**D.4** Review Capital Improvement Plan for Indian Peaks Golf Course

*Analysis:* With a number of deferred capital improvements at the golf course, staff will provide a draft plan for consideration in helping to address improvements needed to remain competitive in the industry.

*Timeline:* 2<sup>nd</sup> Quarter 2014 – Draft Plan created; July 2014 – Council Workshop; 3<sup>rd</sup> Quarter 2014 – Bids/Contracts; 4<sup>th</sup> Quarter 2014 through 2<sup>nd</sup> Quarter 2015 Implementation of the Plan

*Measurement:* A draft Capital Improvement Plan will be reviewed by City Council in a July 15, 2014 workshop.

*Progress:*

*Assigned to:* Monte Stevenson, Director of Parks, Open Space and Golf

## **“Parking Lot” Goals**

### **GOAL**

1. Inventory housing and determine needs for affordable housing including “at risk housing”.
2. Revisit remote access policy for Council meetings.
3. Study feasibility of improvement to Museum facilities.
4. Revisit remote access policy for Council meetings.
5. Expand trash recycling in non HOH-residential to include composting and encourage recycling in HOA residential areas.
6. Examine needs in the community as related to human services.
7. Create incentives for hiring and retaining multilingual employees.
8. Monitor RTD and BRT proposals.
9. Review City Council representation on LURA.
10. Review “walk-ability” of the community including snow removal policy.
11. Create a tree replacement plan due to ash borer problem.
12. Review the criteria for open space purchase, more specifically, retention of agricultural land.
13. Meet with PIO to review priorities, goals and direction of the City’s marketing and communication program.
14. Develop comprehensive bike lane plan.
15. Complete Comprehensive Plan.

# RECORD OF PROCEEDINGS

## CITY OF LAFAYETTE CITY COUNCIL WORKSHOP

February 18, 2014

### **Call to Order**

Mayor Christine Berg called the February 18, 2014 City Council Workshop to order at 5:30 p.m. in the Council Chambers at 1290 South Public Road in Lafayette, Colorado.

Those in attendance included Mayor Christine Berg, Mayor Pro Tem Gustavo Reyna; and Councilors Staci Lupberger, Merrily Mazza, Alexandra Lynch and Tom Dowling.

Also present were Acting City Administrator Phillip Patterson, Police Chief Rick Bashor, City Attorney Bill Hayashi and City Clerk Susan Koster.

### **Retail Marijuana Regulations and Business Licensing**

Acting City Administrator Patterson provided an overview of an ordinance enacting rules pertaining to retail marijuana business licensing. He said the ordinance is modeled on the ordinance already in place for medical marijuana licensing in Lafayette and was written according to State rules and regulations for retail marijuana.

Councilors discussed proposed regulations for retail marijuana and suggested amendments to medical marijuana regulations.

### **Adjournment**

Mayor Berg adjourned the workshop at 6:25 p.m.

CITY OF LAFAYETTE, COLORADO

ATTEST:

\_\_\_\_\_  
Christine Berg, Mayor

\_\_\_\_\_  
Susan Koster, CMC  
City Clerk

The minutes herein are a summary of the business conducted at this meeting, not a verbatim transcription. Only the actions taken and text appearing within quotation marks are verbatim.

# RECORD OF PROCEEDINGS

## CITY OF LAFAYETTE CITY COUNCIL MEETING

February 18, 2014

### **Call to Order**

The February 18, 2014, regular City Council Meeting began at 6:35 p.m. in the Council Chambers at Lafayette City Hall, located at 1290 S. Public Road in Lafayette, Colorado.

### **Roll Call**

Those in attendance included Mayor Christine Berg, Mayor Pro Tem Gustavo Reyna; and Councilors Tom Dowling, Staci Lupberger, Merrily Mazza and Alexandra Lynch. A motion was made by Councilor Lynch and seconded by Councilor Lupberger to excuse Councilor Brad Wiesley. The motion passed unanimously.

Also present were Acting City Administrator Phillip Patterson, Police Chief Rick Bashor, City Clerk Susan Koster, Finance Director Wade Nickerson, City Prosecutor Ralph Josephsohn, Public Works Director Doug Short, Acting City Attorney Bill Hayashi, and Director of Parks, Open Space & Golf Monte Stevenson.

### **Liquor Authority Hearing**

City Clerk Koster said Patrick Wolfe, owner of Crossroads Bar & Tavern, was issued an Order to Show Cause and notice to appear before the Lafayette Liquor Authority on February 18, 2014 regarding violations occurring at his establishment in June of 2013. Mr. Wolfe met with Prosecuting Attorney Ralph Josephsohn on January 23, 2014 and signed a stipulation agreement in which he did not contest the allegations and agreed to mitigating measures to avoid recurrence of the violations. Prosecuting Attorney Ralph Josephson invited Mr. Wolfe to the podium and asked him to acknowledge that he did enter into a stipulation agreement. Mr. Wolfe made that acknowledgement and spoke about the tavern's history of good standing in the community. Mr. Josephson described mitigating measures that were agreed upon and reviewed options for imposing sanctions on the licensee.

A motion was made by Councilor Lynch to approve the stipulation agreement between the City of Lafayette and Crossroads Bar & Tavern, 400 W. South Boulder Road, #2600. The motion passed unanimously.

A motion was made by Councilor Dowling and seconded by Councilor Lynch to impose five days suspension of the license from February 19, 2014 to February 23, 2014. The motion passed unanimously.

A motion was made by Councilor Lupberger and seconded by Councilor Lynch to allow the licensee to pay a fine of \$273.65 in lieu of suspension not later than 3 business days before the first day of the active suspension. The motion passed unanimously.

A motion was made by Councilor Dowling and seconded by Councilor Lupberger to change the dates of active suspension to February 24, 2014 to February 28, 2014 to allow the licensee to pay the fine as required. The motion passed unanimously.

A motion was made by Councilor Lynch to approve the Order, finding that the licensee requested to pay a fine in lieu of serving 5 days of suspension not held in abeyance; finding that the payment of a fine is appropriate under Section 12-47-601CRS, and calculating the amount of the fine to be \$273.65. The full amount of the fine is to be paid to the City Treasurer not later than 3 business days before the first day of active suspension, and the 5 days of suspension not held in abeyance shall be permanently stayed. The motion passed unanimously.

### **Public Input**

Lotus Thomas introduced herself as the new Executive Director of Project YES and spoke about the mission and activities of her organization.

Randy Moorman of Eco-cycle, urged Council to support curbside composting.

Former mayor, Frank Phillips of 278 S. Finch Avenue, spoke in favor of funding the Boulder County Youth Corps.

Library Board member Dave Belin, 174 High Country Drive, talked about the volunteer activities at the library.

Gerald Sloat, 3785 Orange Lane (Boulder) urged Council to increase the number of allowed licenses for marijuana business operations.

Boulder County Health representative Heath Harmon, 3450 N. Broadway (Boulder), suggested several regulations to include in the retail marijuana ordinance.

Karin Lazaros, 3110 Foundry Place (Boulder), spoke in favor of raising the cap on licenses for marijuana business operations.

Shawn Coleman, 3250 O'Neal Circle (Boulder), offered several suggestions pertaining to the retail marijuana ordinance.

### **Presentation**

Open Space Advisory Committee members Erin Frazier and Dave Belin presented their committee's 2013 Annual Progress Report and 2014 Goals.

### **Consent Agenda**

Mayor Berg read the consent agenda.

- D. Minutes of Regular Council Meeting of February 4, 2014
- E. Resolution No. 2014-09 / Amending Fees for Municipal Services, Exhibit A / Liquor Licensed Drugstore
- F. Resolution No. 2014-10 / Authorizing an Intergovernmental Agreement / Youth Corps / Boulder County
- G. Resolution No. 2014-11 / Setting Date for Annexation Hearing / Swinburg Annexation No. 1 / Twelve Acres Adjacent to and South of the Hwy 287 & Public Drive Intersection
- H. Resolution No. 2012-12 / Decreasing Off-Street Parking Requirement / 101 S. Public Road
- I. Second Reading / Ordinance No. 01, Series 2014 / Vacation of Utility Easement / Lot 77 Josephine Commons Replat #1 Subdivision
- J. Second Reading / Ordinance No. 02, Series 2014 / Granting of Utility Easement to Public Service Company / Lots 1 and 3, Minor Subdivision Replat of part of Foltz Subdivision (City Service Center)
- K. Seventh Amendment to Fourth Interim Agreement Between the Municipal Sub-district, Northern Colorado Water Conservancy District, Windy Gap Firing Project Water Activity Enterprise and the City of Lafayette / Participation in the Windy Gap Firing Project

- L. Contract / Waneka Dam Inundation Study/ The Applegate Group
- M. Contract / Design and Construction of Eldorado Diversion Structure / Merrick and Company
- N. Contract/Water Conservation Programs / Center for ReSource Conservation
- O. Contract / Engineering Coal Creek Trail Repairs at Adler-Fingru Open Space / Loris and Associates, Inc.
- P. Purchase Orders and Amendments

Item H was removed from the Consent Agenda for further discussion.

A motion was made by Councilor Lynch and seconded by Councilor Mazza to approve the remainder of the Consent Agenda. The motion passed unanimously.

A motion was made by Councilor Lupberger and seconded by Councilor Mazza to approve Resolution No. 2014-12 / Decreasing Off-Street Parking Requirement for Property at 101 S. Public Road. The motion passed unanimously.

### **Council Appointments**

A motion was made by Councilor Lynch and seconded by Councilor Lupberger to reappoint Blanca Montpellier to a three-year term and appoint current alternates Jorge Sanchez and Cheryl Diaz to voting member status on the **Latino Advisory Board**. The motion passed unanimously.

A motion was made by Mayor Pro Tem Reyna and seconded by Councilor Lupberger to appoint Elizabeth Lyon and Neville Harson for three-year terms, and to appoint Sheble McConnellogue and Sean Lynch as alternate members to the **Cultural Arts Commission**. The motion passed unanimously.

A motion was made by Councilor Lynch and seconded by Councilor Dowling to appoint Sandra Bonel to a three-year term on the **Public Art Committee**. The motion passed unanimously.

### **Proclamation**

Councilor Mazza read a proclamation designating February as 2014 **Black History Month**. A motion was made by Councilor Mazza and seconded by Councilor Lupberger to adopt the proclamation as read. The motion passed unanimously.

### **Retail Marijuana Business License Ordinance**

Acting City Administrator Patterson presented Ordinance No. 04, Series 2014 / Enacting Article III of Chapter 56 of the Code of Ordinances pertaining to Retail Marijuana Business Licensing. He reminded Council that, during the workshop, they discussed including the option to co-locate medical and retail operations on a shared premise for sales to those 21 years of age and older.

A motion was made by Councilor Lynch and seconded by Councilor Dowling to approve on first reading Ordinance No. 04, Series 2014.

A motion was made by Councilor Lynch to amend Section 56-270(a)(7) changing the distance restriction between centers from 750 feet to 1,000 feet. The motion passed unanimously.

A motion was made by Councilor Lynch and seconded by Councilor Dowling to amend Section 56-270(b)(5) by increasing from 5 to 6, the total number of physical locations that may be licensed for retail and/or medical marijuana cultivation and product manufacturing. The motion passed by a vote of 5 to 1, with Councilor Lupberger voting no.

A motion was made by Councilor Lynch and seconded by Councilor Mazza to amend Section 56-270(h) to include the option of co-locating medical and retail operations on a shared premise for sales to those 21 years of age and older. The motion passed unanimously.

A vote was taken on the original motion, as amended. It passed 5 to 1, with Councilor Lupberger voting no.

### **Repealing and Reenacting Medical Marijuana Business Licensing Ordinance**

A motion was made by Councilor Lynch and seconded by Council Mazza to approve on first reading Ordinance No. 05, Series 2014 / Repealing and Reenacting in its Entirety Article II, Chapter 56 of the Code of Ordinances pertaining to Medical Marijuana Business Licensing.

A motion was made by Councilor Lynch to amend Section 56-242(a)(7) changing the distance restriction between centers from 750 feet to 1,000 feet. The motion passed unanimously.

A motion was made by Councilor Lynch and seconded by Councilor Dowling to amend Section 56-242(b)(5) increasing from 5 to 6, the total number of physical locations that may be licensed for retail and/or medical marijuana cultivation and product manufacturing. The motion passed by a vote of 5 to 1, with Councilor Lupberger voting no.

A motion was made by Councilor Lynch and seconded by Councilor Mazza to amend Sec. 56-242(g) to include the option of co-locating medical and retail operations on a shared premise for sales to those 21 years of age and older. The motion passed unanimously.

A vote was taken on the original motion, as amended. It passed unanimously.

### **Residential Recreational Marijuana Cultivation**

Acting City Administrator Patterson presented the first reading of Ordinance No. 06, Series 2014 / Amending Chapter 70 of the Municipal Code Regarding Nuisances Pertaining to Residential Marijuana Cultivation. He said the ordinance restricts the total number of plants that may be grown for recreational purposes in a single family residence to 12, no matter how many adult individuals reside there. A motion was made by Councilor Dowling and seconded by Councilor Mazza to approve on first reading Ordinance No. 06, Series 2014 as presented. The motion passed unanimously.

### **Amendment to the Recreational Marijuana Moratorium Ordinance**

City Attorney Hayashi said the ordinance was amended following the first reading. Acting City Administrator Patterson pointed out the changes that were made to the title and to Section 2. A motion was made by Councilor Lynch and seconded by Councilor Mazza to approve on second reading Ordinance No. 03, Series 2014 Amending the Moratorium Extended by Ordinance No. 23, Series 2013 on the Submission, Acceptance or Processing of Applications and the Licensing, Permitting, Establishment or Operation of any Recreational Marijuana Business that sells,

Allows the Use of Marijuana or Marijuana Products Pursuant to Amendment 64 Approved by the Voters of the State of Colorado at the November 6, 2012 General Election, and Codified as Article XVIII, Section 16 of the Colorado Constitution, Including the Use of Land for Such Purpose(s) for the Limited Purpose of Permitting to the Extent Eligible in Accordance with the State's Retail Marijuana Code and Its Rules and Regulations, the Existing Medical Marijuana Center and Medical Marijuana Optional Premises Cultivation Facilities Currently Licensed, or With Applications Under Consideration by the City, To Submit Notice of Intent to the City to Convert or Co-Locate as Applicable such Businesses to or with a Retail Marijuana Establishment Subject to the City's Final Adoption of Retail Marijuana Licensing Rules and Regulations Including all Forms and Fees. The motion passed 5 to 1, with Councilor Lupberger voting no.

**Adjourn**

The meeting was adjourned at 8:42 p.m.

CITY OF LAFAYETTE, COLORADO

ATTEST

\_\_\_\_\_  
Christine Berg, Mayor

\_\_\_\_\_  
Susan Koster, CMC  
City Clerk

[SEAL]

The minutes herein are a summary of the business conducted at this meeting, not a verbatim transcription. Only the actions taken and the text appearing in quotation marks are verbatim.



COMMUNITY DEVELOPMENT DEPARTMENT

**STAFF REPORT**

To: Gary Klaphake, City Administrator  
From: Phillip Patterson, Assistant City Administrator / Community Development Director  
Date: February 25, 2014  
Subject: Second Reading / Ordinance No. 04, Series 2014 as Amended / Enacting Article III of Chapter 56 of the Code of Ordinances pertaining to Retail Marijuana Business Licensing / As Amended

Second Reading / Ordinance No. 05, Series 2014 as Amended / Repealing and Reenacting in it's Entirety Article II, Chapter 56 of the Code of Ordinances pertaining to Medical Marijuana Business Licensing / As Amended

**Recommendation:** Approval of Ordinance No. 04, Series 2014 and Ordinance No. 05, Series 2014 pertaining to retail and medical marijuana business licenses as amended since the first reading.

**Background:** Council approved the first reading of both ordinances on February 18, 2014, subject to: 1) amending the setback between Medical Marijuana Centers and Retail Marijuana Stores from the proposed 750' to 1000'; 2) increasing the total number of physical, independent locations for Medical or Retail Marijuana Cultivation or Product Manufacturing facilities from five (5) to six (6); and allowing for co-location of MM Center and RM Store without separate entrances when those under the age of 21 are prohibited from entering business. These changes have been incorporated into these ordinances.

During the process of revising these ordinances based on Council's approval, it became apparent to staff that both ordinances needed a definition of commercial and industrial zoning districts, and statement that in some cases a MM Center or RM Store might require an approved special use review depending upon which commercial zoning district the use proposes to be located in. For these reasons, staff has amended the two ordinances to include definitions for the zoning districts (Section 56-262, Ordinance No. 4-2014; Section 56-235, Ordinance No. 5-2014) and a statement that MM Centers and RM Stores must also comply with any required land use approvals in order to account for the possibility of a required special use review [Section 56-270(a), Ordinance No. 4-2014; Section 56-242(a), Ordinance No. 5-2014].

**Fiscal Impact:** There are no budgetary impacts associated with these ordinances.

**Attachments:**

- Ordinance No. 04, Series 2014, as amended
- Ordinance No. 05, Series 2014, as amended

ORDINANCE NO. 04 , Series 2014  
INTRODUCED BY: COUNCILOR ALEXANDRA LYNCH

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAFAYETTE,  
COLORADO, ENACTING ARTICLE III OF CHAPTER 56 OF THE CODE OF  
ORDINANCES OF LAFAYETTE ESTABLISHING BUSINESS LICENSING RULES  
AND REGULATIONS FOR RETAIL MARIJUANA ESTABLISHMENTS**

WHEREAS, in the November 2012 general election, the voters of the State of Colorado adopted Amendment 64 to the Colorado Constitution (“Amendment 64”), codified at Article XVIII Section 16, which, in part, authorizes the cultivation, manufacture, testing, and sale of retail marijuana and retail marijuana products: and

WHEREAS, on February 5, 2013, the City enacted Ordinance No. 03-2013, which imposed a moratorium until October 1, 2013, on the submission, acceptance, or processing of applications and the licensing, permitting, establishment, or operation of any recreational marijuana business that sells, cultivates, manufactures, prepares, packages, purchases, tests, or otherwise provides for or allows the use of marijuana or marijuana products pursuant to Amendment 64, including the use of land for such purpose(s) in order to permit the City to research and investigate retail marijuana licensing rules and regulations and to develop, if it should so choose, its own licensing scheme for retail marijuana businesses; and

WHEREAS, in May 2013, the Colorado General Assembly adopted the Colorado Retail Marijuana Code §§ 12-43.4-101 et seq., Colorado Revised Statutes (“C.R.S.”), which implemented a licensing format and procedures for businesses that cultivate, manufacture, distribute, and sell retail marijuana and marijuana products; and

WHEREAS, on September 3, 2013, by Ordinance No. 23-2013, the City continued the moratorium until April 1, 2014, because many local, state, and federal issues regarding the licensing and regulation of retail marijuana establishments remained unresolved; and

WHEREAS, during the moratorium and its extension, staff, as directed by City Council, reviewed laws and regulations enacted by the state and local government and the actions of the federal government regarding recreational marijuana and has drafted an ordinance and proposed regulations and procedures concerning the regulation of retail marijuana establishments.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAFAYETTE, COLORADO, AS FOLLOWS:

Section 1. Article III, Retail Marijuana, Chapter 56 of the Code of Ordinances of Lafayette, Colorado, is enacted to provide, as follows:

### ARTICLE III RETAIL MARIJUANA

#### **Section 56-260 Legislative intent and authority.**

(a) Section 16 of Article XVIII of the Colorado Constitution (“Amendment 64”) authorizes a system of state licensing for businesses engaged in the cultivation, testing, manufacturing, and retail sale of marijuana (collectively “retail marijuana establishments”). Subsection 16 (5) (f) of Article XVIII allows localities to prohibit state licensing of marijuana establishments and to regulate the time, place, and manner in which such establishments may operate and to limit the total number of such establishments.

(b) The authority of the City to regulate retail marijuana establishments is further set forth in the Colorado Retail Marijuana Code, Article 43.4, Title 12, C.R.S., and Part 3, Article 23, Title 31, C.R.S. (municipal zoning powers), § 31-15-103, C.R.S., and § 31-15-401, C.R.S., (municipal police powers), § 31-15-501, C.R.S. (municipal authority regulate businesses), Article XX of the Colorado Constitution, and the powers contained in the City’s home rule charter.

#### **Section 56-261. Relationship to other laws.**

(a) Except as otherwise specifically provided herein, this article incorporates the requirements and procedures set forth in the Colorado Retail Marijuana Code and its Rules and Regulations. In the event of any conflict between the provisions of this article and the provisions of the Colorado Retail Marijuana Code, including its Rules, or any other applicable state or local law, the more restrictive provision shall control.

#### **Section 56-262. Definitions.**

(a) The following words and phrases shall mean as follows unless the context clearly indicates otherwise:

*Colorado Retail Marijuana Code* (“Retail Marijuana Code”) shall mean Title 12, Article 43.4, Colorado Revised Statutes (“C.R.S.”), as the same may be amended from time to time.

*Commercial Zoning Districts* shall mean the commercial and business zone districts as defined in Section 26-10 of the Lafayette Code of Ordinances (T1, B1 and C1), including amendments thereof, as well as property whose use is regulated by a Planned Unit Development plan that includes any of those zone districts as the underlying zone district.

*Industrial Zoning Districts* shall mean the “Industrial (M1)” as defined in Section 26-11 of the Lafayette Code of Ordinances, including amendments thereof, as well as property whose use is regulated by a Planned Unit Development plan that includes only “Industrial (M1)” as the underlying zone district. A Planned Unit Development plan that allows any Commercial Zoning District(s) in addition to Industrial (M1) as an underlying zone district, shall not qualify as an Industrial Zoning District for the purposes of this Article.

*Retail marijuana* means marijuana that is cultivated, manufactured, distributed, or sold by a licensed retail marijuana establishment.

*Retail Marijuana Code Rules* (“*Rules*”) shall mean the permanent rules pertaining to the Colorado Retail Marijuana Code adopted by the Colorado Department of Revenue, Marijuana Enforcement Division, 1 C.C.R. 212-2, as the same may be amended from time to time.

*Retail marijuana cultivation facility* means an entity licensed to cultivate, prepare, and package marijuana and sell marijuana to retail marijuana stores, to retail marijuana product manufacturing facilities, and to other retail marijuana cultivation facilities, but not to consumers.

*Retail marijuana establishment* means a retail marijuana store, a retail marijuana cultivation facility, a retail marijuana products manufacturer or a retail marijuana testing facility.

*Retail marijuana products* means concentrated marijuana products and marijuana products that are comprised of marijuana and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures, that are produced at a retail marijuana products manufacturing facility.

*Retail marijuana products manufacturing facility* means an entity licensed to purchase marijuana, manufacture, prepare, and package retail marijuana products, and sell marijuana and retail marijuana products to other marijuana product manufacturing facilities and to retail marijuana stores, but not to consumers.

*Retail marijuana store* means an entity licensed to purchase marijuana from marijuana cultivation facilities and marijuana and marijuana products from marijuana product manufacturing facilities and sell marijuana and marijuana products to consumers.

*Marijuana testing facility* means an entity licensed to analyze and certify the safety and potency of marijuana.

*School* means a public kindergarten or school through twelfth grade (K-12), college, or university.

(b) In addition to the definitions set forth herein, the terms used in this article shall have the meaning ascribed to them in Article XVIII, Section 16 of the Colorado Constitution the Retail Marijuana Code, including its Rules.

**Section 56-263. Transition.**

(a) Prior to January 1, 2015, no retail marijuana store, retail marijuana cultivation facility, or retail marijuana products manufacturer shall be licensed or otherwise permitted in the city unless:

(1) The applicant for licensing of a retail marijuana establishment was, as of the enactment of this article, operating in good standing as a medical marijuana center, medical marijuana optional premises cultivation operation, or medical marijuana-infused products manufacturing operation; and the applicant is, as of the time of application for a local license under this article, currently licensed under both the Colorado Medical Marijuana Code, Title 12, Article 43.3 C.R.S. ("Medical Marijuana Code") and article II of chapter 56 of this Code; or the applicant, as of the enactment of this article, has an application for a medical marijuana optional premises cultivation operation, which has been filed with and accepted for consideration by both

the state and city and the applicants propose to surrender the existing medical marijuana license upon receipt of a retail marijuana license, as the medical marijuana establishment is to be converted to a retail marijuana establishment at the same location; or

(2) The applicant for licensing of a retail marijuana establishment was, as of the enactment of this article, operating in good standing as a medical marijuana center, medical marijuana optional premises cultivation operation, or medical marijuana-infused products manufacturing operation; and the applicant is, as of the time of application for a local license under this article, currently licensed under both the Medical Marijuana Code and article II of chapter 56 of this Code; or the applicant as of the enactment of this article has an application for a medical marijuana optional premises cultivation operation, which has been filed with and accepted for consideration by both the state and the city and the applicants propose to retain the existing medical marijuana license while co-locating a retail marijuana establishment under common ownership at the same location to the extent allowed by the Retail Marijuana Code, including its Rules, and section 56-270 of this article.

(b) Prior to January 1, 2015, any person who obtains a transfer of ownership of the state and local licenses for a medical marijuana establishment that was operating in good standing as of the enactment of this article, and is duly licensed under both the Medical Marijuana Code and article II of chapter 56 of this Code, may qualify for licensing as a retail marijuana establishment in the city as allowed by subsection (a) or (b) of this section.

(c) Commencing January 1, 2015, any person who otherwise qualifies for licensing under applicable state and city laws may apply for licensing of a retail marijuana establishment in the city regardless of whether or not the applicant is the owner of an existing medical marijuana establishment in the city.

**Section 56-264. License / bond requirements.**

(a) It shall be unlawful for any person to operate a retail marijuana establishment without obtaining a license to operate such business in accordance with the requirements of this article.

(b) The license requirement set forth in this article shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other federal, state, or local law, rules, or regulations, including, by way of example, the Retail Marijuana Code, its Rules, and any applicable local zoning or building code.

(c) All retail marijuana establishments which sell at retail, in addition to being required to obtain a city sales tax license, must as a condition of licensing, procure, maintain, and file with the city's finance department evidence of a good and sufficient bond in the amount of five thousand dollars (\$5,000.00) with a corporate surety duly licensed to do business in the State of Colorado, approved as to form by the city and conditioned upon the applicant's reporting and payment of all city sales and use taxes required by law.

(d) A separate license shall be required for each specific business or business entity and for each geographical location.

**Section 56-265. Screening and response to state licensing applications.**

(a) Upon receipt of an application from the state licensing authority for a retail marijuana license, the city clerk shall:

(1) Initially determine, in consultation with the planning department, whether or not the proposed location complies with all zoning and land use laws of the city and all restrictions on locations and types of retail marijuana establishments permitted within the city as set forth in this article. If the city clerk makes an initial determination that the proposed license would be in violation of any zoning or land use laws or other restriction set forth in the Code, the city clerk shall notify the state licensing authority in writing, that the application is disapproved by the city. The failure of the city clerk to make such a determination upon the initial review of a state license application shall not preclude the local licensing authority from later determining that the proposed license is in violation of any zoning or land use law or other restriction set forth in the code, and disapprove the issuance of a local license on this basis.

(2) For any application that is not disapproved, as provided in subsection 1 above, the city clerk shall notify the state licensing authority in writing that the city's further consideration of the application is subject to completion of the local licensing process described in this article, after which the city clerk will notify the state licensing authority in writing of whether or not the retail marijuana license proposed in the application has or has not been approved by the local licensing authority.

**Section 56-266. Application.**

(a) Applications for local licenses shall be made on forms provided by the city clerk and shall include all materials required by the Colorado Retail Marijuana Code and its Rules.

(b) The applicant shall also provide the following information to the city, which information shall be required for the applicant and as applicable, the proposed manager of the retail marijuana establishment, and all persons having any financial interest in the retail marijuana establishment. To the extent that any of the following information has been included with the applicant's state license application and forwarded to the city by the state licensing authority, the local licensing authority may rely upon the information forwarded from the state without requiring re-submittal of the same materials for the local license application.

(1) Proof of insurance of workers' compensation insurance and public liability insurance, which at a minimum meets the current maximum liability amounts for injury to any single person, or for any injury to two or more persons in any such occurrence, as set forth in the Colorado Governmental Immunity Act (C.R.S. § 24-10-114), as same may be amended from time to time.

(2) A completed zoning confirmation form from the city based upon an applicant's submittal of an area map drawn to scale, indicating, within a radius of one thousand feet (1,000), as measured from the nearest portion of the footprint of the proposed retail marijuana establishment to the nearest property line of the land used or roadway rights-of-way boundary, for the properties which are subject to the location restrictions set forth in section 56-270.

(3) An operating plan for the proposed retail marijuana establishment, including the following information:

- (i) A description of the products and services to be provided by the retail marijuana establishment.
- (ii) A dimensional floor plan, drawn to scale, clearly labeled, and showing:
  - (A) The layout of the structure and the floor plan in which the retail marijuana establishment is to be located;
  - (B) The principal uses of the floor area depicted on the floor plan, including, but not limited to, the areas where the public will be permitted and all private, cultivation, storage, retail, testing, and restricted areas where retail marijuana will be located;
  - (C) Areas where any services other than the distribution of retail marijuana are proposed to occur in the premises; and
  - (D) If applicable, the separation of areas open to persons who are underage from those areas open to persons eligible to purchase retail marijuana.

(4) The city shall require each retail marijuana establishment applicant to obtain and submit a report from an industrial hygienist to verify that the establishment's facility and its processes and procedures, which include but are not limited to, the sale, storage, processing, extraction, washing, heating, cultivation, packaging, and testing of marijuana, are in compliance with all applicable laws, rules, and regulations and adequately designed and operated in a manner which protects the establishment, its employees, customers, the general public, and adjacent properties.

(5) A plan for disposal of any retail marijuana or retail marijuana product that is not sold in a manner that protects any portion thereof from being possessed or ingested by any person or animal.

(6) A plan for ventilation of the retail marijuana establishment that fully describes the ventilation systems that will ensure the odor of marijuana cannot be detected by a person with a normal sense of smell at the exterior of the retail marijuana establishment or at any adjoining property. For retail marijuana establishments that cultivate marijuana, such plan shall also include all ventilation systems used to control the environment for the marijuana plants and describe how such systems operate in conjunction with the systems preventing any odor leaving the premises. For retail marijuana establishments that produce marijuana products, such plan shall also include all ventilation systems used to mitigate noxious gases or other fumes used or created as part of the production process.

(7) Fingerprints and personal background information for all owners, managers, and financiers employed by or under contract to provide services to the retail marijuana establishment, directly or as a member, partner, or officer of a corporation, partnership, association, or company.

(8) All applications must include all documents and information required by the Retail Marijuana Code, including its Rules and any information that the city deems reasonably necessary for the investigation and review of the application.

(9) Upon receipt of an application, the city clerk shall notify all affected departments of the city to determine whether the application is in full compliance with all state and local laws, rules, and regulations. The city clerk, upon review of all applicable information, shall prepare a report including all applicable documents to be submitted to the local licensing authority.

(10) In the event the criminal history of an owner, member, manager, financier, or other person named on the application contains information regarding conviction of a crime or previous denial or revocation of any medical or retail marijuana or professional license, that person may include with the license application any information regarding such conviction, denial, or revocation. Such information may include, but is not limited to, evidence of rehabilitation, character references, and educational achievements, especially documentation pertaining to the period of time between the applicant's last criminal conviction and the date of the application.

(11) Any application or renewal for a retail marijuana establishment license shall include, as applicable, payment of a nonrefundable application or renewal fee and payment of an annual operating fee. If a license is not granted, the operating fee is refundable in full. All such fees shall be established by resolution of city council.

(12) A license issued pursuant to this article does not eliminate the need for the licensee to obtain other required permits or licenses related to the operation of the retail marijuana establishment, including, without limitation, any State of Colorado license or any sales tax license, business registration, development approvals, or building permits required by the Code.

**Section 56-267. Local licensing authority.**

(a) The city administrator shall serve as the local licensing authority and have and exercise all powers expressly granted and necessarily implied by the Retail Marijuana Code, its Rules, and as set forth in this article to regulate retail marijuana establishments within the city. The local licensing authority shall be responsible for all local duties and responsibilities regarding the issuance, renewal, suspension, revocation, transfer of ownership, and change of location of a retail marijuana establishment.

(b) The local licensing authority shall have the power to promulgate rules and regulations as are reasonable and necessary to implement and administer the requirements of this article.

(c) Upon receipt of a complete application from the city clerk, the local licensing authority shall review all applicable documentation, as well as any other facts pertinent to the license or qualifications of the licensee, and issue a decision as to whether to grant, deny upon a finding of "good cause," or conditionally approve such application within fifteen (15) business days of receipt of same from the city clerk. The decision shall be in writing and state the reasons for the decision with a copy to be sent to the applicant at the establishment's address provided in the application.

(1) The local licensing authority shall have the authority to deny any application that does not meet the requirements of the Retail Marijuana Code, its Rules, this article, and any other applicable state or local law, rule, or regulation. The local licensing authority shall also have the authority to deny any application that contains any false, misleading, or incomplete information. Denial of an application for a license shall not be subject to administrative review but only to review by a court of competent jurisdiction.

(2) A local license, which shall only be applicable to a specifically identified business at a fixed location within an enclosed and secure premises, shall not be issued until a state license has been granted and the building in which the establishment's business is to be conducted has passed all applicable inspections and is ready for occupancy with such furniture, fixtures, and equipment in place as are necessary to comply with any applicable provisions of the code or any state law, rule, or regulation.

(d) The local licensing authority may, after notice and hearing, suspend, revoke, or refuse to renew a license for "good cause." The local licensing authority is authorized to adopt rules and procedures governing the conduct of such hearings. No portion of any application or operating fees previously paid shall be refunded in the event of any suspension or revocation of a license.

(e) *Good cause*, for the purpose of denying, refusing to renew, suspending or revoking a license, or exercising other discretionary authority granted the local licensing authority, shall mean:

(1) The applicant or licensee has violated, does not meet, or has failed to comply with any of the terms, requirements, conditions, or provisions of this article, the Retail Marijuana Code, its Rules, or any applicable state or local law, rule, or regulation;

(2) The local licensing authority has determined that the applicant or licensee's character, record, or reputation is not satisfactory after consideration of factors, which include, but are not limited to, the following:

(i) The applicant or licensee has knowingly submitted false application(s), made willful misrepresentations, or knowingly committed fraudulent acts;

(ii) The applicant or licensee has a criminal history of crimes of moral turpitude, which may include, for example, but not be limited to, murder, burglary, robbery, arson, kidnapping, sexual assault, and illegal drugs or narcotics convictions;

(iii) The applicant or licensee has had any previous retail or medical marijuana license denied or revoked as a result of violations of law, rule, or regulation, or a finding of bad moral character by any licensing authority;

(iv) The applicant or licensee has been found to be currently delinquent in the payment of any state or local taxes;

(v) The applicant or licensee has an established pattern of multiple statutory violations which resulted in the revocation or denial of any other professional license, leading to the finding of bad moral character by any licensing authority;

(vi) The licensed premises has been operated in a manner that adversely affects the public health, safety, or welfare. Evidence to support such a finding, may include, but not be limited to, a continuing pattern of disorderly conduct or drug related criminal conduct upon or in the immediate vicinity of the premises, continuing pattern of criminal conduct directly related to or arising from the operation of the retail marijuana establishment, or an ongoing nuisance condition emanating from or caused by the retail marijuana establishment.

(vii) When making a determination as to character, record, and reputation, the licensing authority shall also consider evidence of rehabilitation. Such evidence may include, but not be limited to, evidence of no criminal record information, educational achievements, financial solvency, community standing, lack of additional arrests or convictions, or the lack of parole or probation violations since the date of last conviction.

(3) The applicant or licensee has failed to comply with any special terms or conditions of a license, including those terms and conditions that were established at the time of issuance of the license and those imposed as a result of any renewal or suspension proceedings held subsequent to the date of issuance of the license; or

(4) The licensed premises has been operated in a manner that adversely affects the public health, welfare, or safety of the immediate neighborhood in which the licensed establishment is located. Evidence to support such a finding can include, without limitation, a continuing pattern of disorderly conduct or continuing pattern of drug-related criminal conduct within the establishment.

**Section 56-268 Issuance of license; duration, renewal.**

(a) Each license shall show the name of the licensee, the physical address for which the license is issued, and the type of retail marijuana establishment for which it is issued. The license, along with the city sales tax license and the current contact information for the owner(s), shall be displayed continuously in a conspicuous location at the physical address indicated on the license.

(b) Each license issued pursuant to this article shall be valid for one (1) year from the date of issuance and may be renewed only as provided in this article. All renewals of a license shall be for no more than one (1) year. The local licensing authority shall act on renewal applications received from the state licensing authority in accordance with the applicable provisions of the Colorado Retail Marijuana Code and its Rules. The timely filing of a renewal application shall extend the current license until a decision is made on the renewal.

(c) Notwithstanding subsection (b), a licensee whose license has been expired for not more than ninety (90) days may file a late renewal application upon the payment of a non-refundable late application fee to the local licensing authority in the amount established by resolution of city council. A licensee who files a late renewal application and pays the requisite fee may, subject to compliance with all applicable local, state, and federal laws, rules, and regulations continue to operate until a decision is made on the renewal.

**Section 56-269. Annual operating fee.**

(a) Upon and as a condition of issuance of a license or any renewal of a license, the licensee shall pay to the city an annual operating fee in an amount established by resolution of city council. The annual operating fee shall be refunded if the application or renewal is denied.

**Section 56-270. Location, co-location, operational restrictions and requirements, retail marijuana establishments.**

(a) Retail marijuana stores are allowed only in Commercial Zoning Districts and only upon obtaining the land use approvals as are otherwise necessary for such use; and further provided that no retail marijuana store may be located within:

(1) Five hundred (500) feet of the right-of-way of Public Road north of South Boulder Road; or

(2) Five hundred (500) feet of the right-of-way of East Simpson Street, east of Public Road to 500-501 East Simpson Street; or

(3) Five hundred (500) feet of the right-of-way of 120th Street and 119th Street, north of Emma Street to Highway 7; or

(4) Eight hundred (800) feet of the right-of-way of Highway 287 and Highway 7; or

(5) Five hundred (500) feet of any city residential subdivision, residentially zoned property, or property with residential as a principal use; or

(6) Five hundred (500) feet of any licensed commercial day care; or

(7) One thousand (100) feet of any medical marijuana center or any retail marijuana store, except that any applicant seeking to co-locate a center and a store, shall be exempt from this requirement as to the center and store set forth in the application; or

(8) One thousand (1,000) feet of any school or hospital.

(b) Retail marijuana product manufacturers and cultivation facilities are allowed only in the Industrial Zoning District, and only upon obtaining the land use approvals as are otherwise necessary for such use; and further provided that no such uses may be located within:

(1) Five hundred (500) feet of a licensed commercial day care; or

(2) Eight hundred (800) feet of the right-of-way of Highway 287; or

(3) One thousand (1,000) feet of any school or hospital; or

(4) Five hundred (500) feet of any city residential subdivision, residentially zoned property, or property with residential as a principal use; and

(5) There may be no more than six (6) total physical (independent) locations containing any mix of licensed retail marijuana product manufacturers, licensed medical marijuana infused product manufacturers, licensed retail marijuana cultivation facilities, or licensed medical marijuana optional premises cultivation operations within the industrial zoning district category.

(6) The licensed premises of a retail marijuana product manufacturer, including any such establishment, which is co-located with a medical marijuana infused product manufacturer and the licensed premises of a retail marijuana cultivation facility, including any such establishment which is co-located with a medical marijuana optional premises cultivation operation shall not exceed ten thousand (10,000) square feet.

(c) Retail marijuana testing facilities are permitted only in the industrial zoning district; however, no such use may be located within:

- (1) Five hundred (500) feet of a licensed commercial day care; or
- (2) Eight hundred (800) feet of the right-of-way of Highway 287; or
- (3) One thousand (1,000) feet of any school or hospital; or

(4) Five hundred (500) feet of any city residential subdivision, residentially zoned property, or property with residential as a principal use; and

(d) The distances set forth in this section are to be computed by direct measurement from the nearest property line or right-of-way boundary of the land uses set forth herein to the nearest portion of the footprint of the retail marijuana establishment.

(e) The distance restrictions set forth in this section shall not affect the renewal of a license once granted or apply to a license in effect and actively doing business before the construction of, or the opening of, a residential subdivision, residentially zoned property, property with residential as a principal use, licensed commercial day care, school, or hospital.

(f) The licensed premises of a retail marijuana store, including any store co-located with a medical marijuana center shall not exceed three thousand (3,000) square feet.

(g) Residential location prohibited. No retail marijuana establishment shall be located within any building which contains a residence or within any dwelling or residential zoning district.

(h) Co-location restrictions. Retail marijuana establishments and medical marijuana establishments may be under common ownership in the same location and share the same licensed premises, subject to the following:

(1) A licensed medical marijuana center that permits admittance of patients under twenty-one (21) years of age may also hold a retail marijuana store license and operate a dual marijuana business operation on the same licensed premises. In such case, the retail marijuana store licensee must post signage that clearly conveys that persons under twenty-one (21) years of age may not enter the area which contains the retail marijuana store. Under these circumstances, and upon approval of the local and state licensing authorities, the medical marijuana center and the retail marijuana store may share a common foyer but must have separate entrances and exits, and medical marijuana and retail marijuana goods and products must be separately displayed and sold. Record keeping for the business operations of both must enable the local and state licensing authorities to clearly distinguish the inventories and business transactions of medical marijuana and medical marijuana-infused products from retail marijuana and retail marijuana products.

(2) A licensed medical marijuana center that prohibits admission of patients under the age of twenty-one (21) years of age may also hold a retail marijuana store license and operate a dual marijuana business operation on the licensed premises. In such cases, the medical marijuana center must post signage that clearly conveys that persons under twenty-one (21) years of age may not enter the establishment. Under these circumstances and upon approval of the local and state licensing authorities the medical marijuana center and retail marijuana store may share the same entrances and exits. Medical marijuana and retail marijuana and medical marijuana-infused products and retail marijuana products must be displayed separately on the same sale floor. Record keeping for the business operations of both must enable the state and local licensing authority to clearly distinguish the inventories and business transactions of medical marijuana and medical marijuana-infused products from retail marijuana and retail marijuana product

(3) Co-located licensed operations must be operated in accordance with both the Medical and Retail Marijuana Code and their rules.

(i) Business Conducted Within Building. Any and all cultivation, production, distribution, possession, storage, display, sales, or other distribution of marijuana shall occur only within the restricted area of a retail marijuana establishment and shall not be visible from the exterior of the establishment.

(j) Manager Registration Requirements. Each retail marijuana establishment licensee shall manage or have a separate and distinct manager and shall register the manager of each establishment with the state and the local licensing authority. No person shall be a registered manager for more than one retail marijuana establishment. Whenever a person ceases to be a registered manager of a retail marijuana establishment, the retail marijuana licensee shall notify the licensing authorities within five days and shall designate a new registered manager within thirty days. Either the state or the local licensing authority may refuse to accept any person as a registered manager unless the person is satisfactory to the respective licensing authorities as to character, record, and reputation. In determining a registered manager's character, record, and reputation, the state or local licensing authority may have access to criminal history record information furnished by a criminal justice agency subject to any restrictions imposed by such agency.

(k) Hours of Operation. A retail marijuana store shall be closed to the public, and no sale or other distribution of marijuana shall occur upon the premises between the hours of 7:00 p.m., thru and including 8:00 a.m.

(l) Use of Pesticides. No pesticides or insecticides that are prohibited by applicable law for fertilization or production of edible produce shall be used on any marijuana cultivated, produced, or distributed by a retail marijuana establishment. A retail marijuana establishment shall comply with all applicable laws regarding use of pesticides.

(m) Ventilation Required. A retail marijuana establishment shall be ventilated to ensure the odor of marijuana cannot be detected by a person with a normal sense of smell at the exterior of the retail marijuana establishment or at any adjoining property.

(n) Wastewater Requirements. All retail marijuana establishments shall be operated in such a manner as to not permit, allow, or cause to be discharged any substance or material prohibited by the city into or upon any watercourse or city reclamation conduit, facility, or plant.

(o) Off Premises Storage of Retail Marijuana and Retail Marijuana Product Prohibited. No retail marijuana establishment may store retail marijuana or any retail marijuana product in any off-premises storage facility located within the city.

(p) Limitations on Inventory. No marijuana plants shall be located in a retail marijuana store. In addition, retail marijuana establishments shall not contain any more marijuana within the restricted area than as set forth herein:

Products Manufacturing Facility: 600 pounds of marijuana that has not been incorporated into a product and 150 pounds of retail marijuana product.

Testing Facility: 100 pounds of marijuana that has not been incorporated into a product and 100 pounds of retail marijuana product.

q) Reporting Requirements. A retail marijuana establishment shall report to the local licensing authority each of the following events within the time specified. If no time is specified, the report shall be provided within 72 hours of the event.

(1) transfer or change of financial interest, business manager, or financier in the license to the city at least thirty days before the transfer or change.

(2) sales and taxable transactions and file sales and use tax reports to the city monthly.

(3) a violation of any law by any licensee or applicant of a retail marijuana business.

(4) each licensee shall post and keep at all times visible to the public, in a conspicuous place on the premises, a sign to be furnished by the city clerk's office, which sign shall be in the following form: "WARNING: THE LAFAYETTE POLICE DEPARTMENT MUST BE NOTIFIED IMMEDIATELY OF ALL UNLAWFUL ACTS AND DISTURBANCES IN THIS ESTABLISHMENT." Licensees' shall immediately report to the police department any unlawful act, conduct, or disturbance committed upon the premises.

(r) Respond to Inquiry. The owner or manager of a retail marijuana establishment is required to respond by phone or email within 24 hours of contact by a city official concerning its retail marijuana establishment at the phone number or email address provided to the city as the contact for the business. Each 24 hour period during which an owner or manager does not respond to the city official shall be considered a separate violation.

(s) Signs and Advertising.

(1) Any person or premises licensed as a retail marijuana establishment shall comply with all city ordinances regulating signs and advertising. In addition, no licensed retail marijuana establishment shall use any advertising material that is misleading, deceptive, false, or

that, as evidenced either by the content of the advertising material or the medium or the manner in which the advertising is disseminated, is designed to appeal to persons under twenty-one (21) years of age.

(2) Except as otherwise provided in this subsection (2), it shall be unlawful for any person licensed under this article or any other person to advertise any retail marijuana or retail marijuana product anywhere in the city where the advertisement is visible to members of the public from any street, sidewalk, park, or other public place, including advertising utilizing any of the following media: any billboard or other outdoor general advertising device as defined by the zoning code; any sign mounted on a vehicle, any hand-held or other portable sign; or any handbill, leaflet or flier directly handed to any person in a public place, left upon a motor vehicle, or posted upon any public or private property without the consent of the property owner. The prohibition set forth in this section shall not apply to:

- (i) Any sign located on the same zone lot as a retail marijuana store which exists solely for the purpose of identifying the location of the retail marijuana store and which otherwise complies with the city's zoning requirements and any other applicable city laws and regulations; or
- (ii) Any advertisement contained within a newspaper, magazine, or other periodical of general circulation within the city; or
- (iii) Advertising which is purely incidental to sponsorship of a charitable event by a retail marijuana establishment.

(3) For purposes of this subsection (s), the terms "advertise," "advertising," or "advertisement," mean the act of drawing the public's attention to a retail marijuana establishment in order to promote the sale of retail marijuana goods or products by the establishment.

**Section 56-271. Limitations on retail marijuana products manufacturer and retail marijuana cultivation facility.**

(a) No retail marijuana product manufacturer shall be permitted to operate within the city unless the same licensee has a licensed retail marijuana cultivation facility located within the city.

**Section 56-272. Inspection of books, records, and licensed premises.**

(a) Each licensee shall keep a complete set of all records necessary to show fully the business transactions of the licensee, all of which shall be open at all times during business hours for the inspection and examination by the local licensing authority, its duly authorized representatives, and the city police department for the purposes of investigating and determining compliance with the provisions of this article and any other applicable state and local laws or regulations. The local licensing authority may require any licensee to furnish such information as it considers necessary for the proper administration of this article. It may also require an audit to be made of the books of accounts and records on such occasions as it may consider necessary by an auditor to be selected by the local licensing authority, who shall likewise have access to all books and records of the licensee.

(b) The licensed premises, including any places of storage where retail marijuana or retail marijuana products are stored, manufactured, packaged, cultivated, processed, displayed, sold, or dispensed, shall be subject to inspection by the local licensing authority, its duly authorized representatives, and the city police department during all business hours and other times of apparent activity, for the purpose of inspection or investigation. For examination of any inventory or books and records required to be kept by the licensees, access shall be required during business hours. Where any part of the licensed premises consists of a locked area, upon demand to the licensee by the local licensing authority or any other authorized city personnel, such area shall be made available for inspection without delay.

(c) Each licensee shall retain all books and records necessary to show fully the business transactions of the licensee for a period of the current tax year and the three immediately prior tax years.

**Section 56-273. Unlawful acts of licensees and persons.**

(a) It shall be unlawful for any licensee to:

(1) Violate or fail to comply with any provision, term, condition, or requirement of the Retail Marijuana Code, including its Rules.

(2) Allow marijuana or marijuana products to be consumed upon its licensed premises.

(3) Use advertising material that is misleading, deceptive, false, or designed to appeal to persons under twenty-one (21) years of age.

(4) Sell retail marijuana or retail marijuana products to a person under twenty-one (21) years of age or to a person who does not present a government-issued identification at the time of purchase.

(5) Refuse to allow inspection of a retail marijuana establishment upon request of an authorized city employee. Any licensee, owner, business manager, operator of a retail marijuana establishment, or owner of the property where a retail marijuana establishment is located may be charged with violation of this requirement.

(6) Advertise or publish materials or display signs that are in violation of this article.

(7) Violate any provision of this article or any condition of an approval granted pursuant to this article, or any law, rule, or regulation applicable to the use of retail marijuana or the operation of a retail marijuana establishment.

(8) Distribute marijuana or retail marijuana product within a retail marijuana store to any person who shows visible signs of intoxication from alcohol, marijuana, or other drugs.

(b) It shall be unlawful for any person to engage in any form of business or commerce involving the cultivation, processing, manufacturing, storage, sale, distribution, testing, or consumption of marijuana other than those forms of business and commerce that are expressly permitted by Section 16 of Article XVIII of the Colorado Constitution, the Retail Marijuana Code, Medical Marijuana Code, and this article, which permit only retail marijuana cultivation

facilities, retail marijuana products manufacturers, retail marijuana testing facilities, retail marijuana stores, and co-located marijuana establishments.

**Section 56-274. No city liability; indemnification.**

(a) By accepting a license issued pursuant to this article, the licensee waives and releases the city, its officers, elected and appointed officials, employees, attorneys, agents, and authorized volunteers from any liability for injuries, damages, or liabilities of any kind that result from any arrest or prosecution of the owners, operators, employees, clients, or customers of the retail marijuana establishment for a violation of state or federal laws, rules, and regulations.

(b) By accepting a license issued pursuant to this article, all licensees, jointly and severally, if more than one, agree to indemnify, defend, and hold harmless the city, its officers, elected and appointed officials, employees, attorneys, agents, authorized volunteers, insurers, and self-insurance pool, against all liability, claims, and demands on account of any injury, loss, or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever arising out of or in any manner connected with the operation of the retail marijuana establishment that is the subject of the license.

**Section 56-275. Other laws remain applicable.**

(a) Except as specifically provided herein, to the extent the state adopts any additional or stricter law, rule, or regulation, governing the sale, transportation, manufacture, cultivation, processing, packaging, displaying, testing, or distribution of retail marijuana or retail marijuana products, the additional or stricter regulation shall control the operation of any retail marijuana establishment in the city. Compliance with any applicable state law or regulation shall be deemed an additional requirement for issuance or denial of any license or operation of any establishment under this article, and noncompliance with any applicable state law or regulation shall be grounds for non-renewal, revocation, or suspension of any license issued hereunder.

(b) Any licensee may be required to demonstrate, upon demand by the local licensing authority, its authorized representative, or by law enforcement officers, that the source and quantity of any marijuana grown upon the licensed premises are in full compliance with any applicable state law or regulation.

(c) If the state or federal government prohibits the sale, transportation, manufacture, cultivation, processing, packaging, testing, or distribution of marijuana through retail marijuana establishments, any license issued hereunder shall be deemed immediately revoked by operation of law, with no ground for appeal, or other redress available, on behalf of the licensee.

(d) The issuance of any license pursuant to this article shall not be deemed to create an exception, defense, or immunity to any person in regard to any potential criminal liability the person may have for the transportation, packaging, manufacturing, cultivation, possession, sale, distribution, testing, or use of marijuana.

Section 2. If any article, section, paragraph, sentence, clause, or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or

constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 3. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof is hereby repealed to the extent of such inconsistency or conflict.

Section 4. The repeal or modification of any provision of the Code of Ordinances of Lafayette, Colorado by this ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision. Each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings, and prosecutions for enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

Section 5. This ordinance is deemed necessary for the protection of the health, welfare, and safety of the community.

Section 6. Violations of this ordinance shall be punishable in accordance with Section 1-10 of the Municipal Code of the City of Lafayette, Colorado.

Section 7. This ordinance shall become effective upon the latter of the 10<sup>th</sup> day following enactment or the day following final publication of the ordinance.

Section 8. Ordinance No. 23-2013 of the City of Lafayette, extending the moratorium entitled "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAFAYETTE, COLORADO, EXTENDING UNTIL APRIL 1, 2014 THE EXISTING MORATORIUM ON THE SUBMISSION, ACCEPTANCE, OR PROCESSING OF APPLICATIONS AND THE LICENSING, PERMITTING, ESTABLISHMENT, OR OPERATION OF ANY RECREATIONAL MARIJUANA BUSINESS THAT SELLS, CULTIVATES, MANUFACTURES, PREPARES, PACKAGES, PURCHASES, TESTS, OR OTHERWISE PROVIDES FOR OR ALLOWS THE USE OF MARIJUANA OR MARIJUANA PRODUCTS PURSUANT TO AMENDMENT 64 APPROVED BY THE VOTERS OF THE STATE OF COLORADO AT THE NOVEMBER 6, 2012, GENERAL ELECTION, AND CODIFIED AS SECTION 16 OF ARTICLE XVIII, OF THE COLORADO CONSTITUTION, AND UPON THE USE OF LAND FOR SUCH PURPOSE(S)," passed on second reading on September 3, 2013, is repealed in its entirety upon final adoption of this ordinance

INTRODUCED AND PASSED ON FIRST READING THE 18TH DAY OF  
FEBRUARY, 2014.

PASSED ON SECOND AND FINAL READING AND PUBLIC NOTICE ORDERED  
THE \_\_\_\_\_ DAY OF \_\_\_\_\_ 2014.

CITY OF LAFAYETTE, COLORADO

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Christine Berg, Mayor

ATTEST:

APPROVED AS TO FORM:

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Susan Koster, CMC  
City Clerk

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David S. Williamson, City  
Attorney

ORDINANCE NO. 05, Series 2014  
INTRODUCED BY: COUNCILOR ALEXANDRA LYNCH

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAFAYETTE, COLORADO, REPEALING AND RENACTING IN ITS ENTIRETY ARTICLE II, CHAPTER 56, OF THE CODE OF ORDINANCES OF LAFAYETTE PERTAINING TO MEDICAL MARIJUANA BUSINESS LICENSING AND RETITLING CHAPTER 56**

WHEREAS, on April 5, 2011, the City enacted Ordinance No. 10, Series 2011 (Article II, Chapter 56, Code of Ordinances of Lafayette, Colorado), which established business licensing rules and regulations for medical marijuana; and

WHEREAS, at the November 2012 general election, the voters of the State of Colorado adopted Amendment 64 to the Colorado Constitution (“Amendment 64”), codified at Article XVIII Section 16, which, in part, authorizes the cultivation, manufacture, testing, and sale of retail marijuana and retail marijuana products; and

WHEREAS, on February 5, 2013, the City enacted Ordinance No. 03-2013, which imposed a moratorium until October 1, 2013, on the submission, acceptance, or processing of applications and the licensing, permitting, establishment, or operation of any recreational marijuana business that sells, cultivates, manufactures, prepares, packages, purchases, tests, or otherwise provides for or allows the use of marijuana or marijuana products pursuant to Amendment 64, including the use of land for such purpose(s) in order to permit the City to research and investigate recreational marijuana licensing rules and regulations and to develop, if it should so choose, its own licensing scheme for retail marijuana businesses; and

WHEREAS, in May 2013, the Colorado General Assembly adopted the Colorado Retail Marijuana Code §§ 12-43.4-101 et seq., Colorado Revised Statutes (“C.R.S.”), which implemented a licensing format and procedures for businesses that cultivate, manufacture, test, distribute, and sell retail marijuana and marijuana products; and

WHEREAS, On September 3, 2013 by Ordinance No. 23-203, the City extended the moratorium until April 1, 2014 because many local, state, and federal issues regarding the licensing and regulation of retail marijuana establishments remained unresolved; and

WHEREAS, during the moratorium and its extension, staff, as directed by City Council, reviewed laws and regulations enacted by the state and local government and the actions of the federal government regarding recreational marijuana and has drafted an ordinance and proposed regulations and procedures concerning the regulation of retail marijuana establishments.

WHEREAS, staff has drafted, for Council's consideration retail marijuana establishment business licensing regulations, which are set forth in Ordinance No. 04, Series 2014; and

WHEREAS, there are many similarities between the licensing and regulation of medical and retail marijuana establishments and the City, to the extent permissible, desires to establish standardized licensing regulations and procedures for medical and retail marijuana establishments; and

WHEREAS, Council finds that standardized rules of procedure will be of convenience to all applicants and licensees and enhance the administrative efficiency of staff concerning medical and retail licensing and regulation.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAFAYETTE, COLORADO, AS FOLLOWS:

Section 1. Medical Marijuana, Chapter 56 of the Code of Ordinances of Lafayette, Colorado is retitled Marijuana.

Section 2. Medical Marijuana, Article II of Chapter 56 of the Code of Ordinances of Lafayette, Colorado, is repealed in its entirety and reenacted to provide:

## **ARTICLE II MEDICAL MARIJUANA**

### **Section 56-233. Legislative intent and authority.**

(a) Section 14 of Article XVIII of the Colorado Constitution establishes an affirmative defense from criminal prosecution by the state for certain persons who use or provide medical marijuana to treat debilitating conditions and the Colorado Medical Marijuana Code, C.R.S. § 12-43.3-101, et seq., authorizes a system of state and local licensing for businesses engaged in the cultivation, testing, manufacturing, and retail sale of medical marijuana (collectively “medical marijuana establishments”), which allows localities to prohibit licensing of medical marijuana establishments and to impose distance and size restrictions upon such establishments along with other requirements to ensure control of the premises and ease of enforcement.

(b) The authority of the City to regulate medical marijuana establishments is further set forth in the Colorado Medical Marijuana Code, Article 43.3, Title 12, C.R.S., Colorado Medical Marijuana Program (C.R.S. § 25-1.5-106), and Part 3, Article 23, Title 31, C.R.S. (municipal zoning powers), § 31-15-103, C.R.S., and § 31-15-401, C.R.S., (municipal police powers), § 31-15-501, C.R.S. (municipal authority regulate businesses), Article XX, Section 6 of the Colorado Constitution, and the powers contained in the City’s home rule charter.

### **Section 56-234. Relationship to other laws.**

(a) Except as otherwise specifically provided herein, this article incorporates the requirements and procedures set forth in the Colorado Medical Marijuana Code and its Rules. In the event of any conflict between the provisions of this article and the provisions of the Colorado Medical Marijuana Code, including its Rules or any other applicable state or local law, the more restrictive provision shall control.

### **Section 56-235. Definitions.**

(a) The following words and phrases shall mean as follows unless the context clearly indicates otherwise:

*Colorado Medical Marijuana Code*, (“Medical Marijuana Code”) shall mean Section 1, Title 12, Article 43.3, Colorado Revised Statutes, and its Rules (1 CCR 212-1) as both may be amended from time to time.

*Commercial Zoning Districts* shall mean the commercial and business zone districts as defined in Section 26-10 of the Lafayette Code of Ordinances (T1, B1 and C1), including amendments thereof, as well as property whose use is regulated by a Planned Unit Development plan that includes any of those zone districts as the underlying zone district.

*Industrial Zoning Districts* shall mean the “Industrial (M1)” as defined in Section 26-11 of the Lafayette Code of Ordinances, including amendments thereof, as well as property whose use is regulated by a Planned Unit Development plan that includes only “Industrial (M1)” as the underlying zone district. A Planned Unit Development plan that allows any Commercial Zoning District(s) in addition to Industrial (M1) as an underlying zone district, shall not qualify as an Industrial Zoning District for the purposes of this Article.

*Medical marijuana* means marijuana that is grown and sold pursuant to this article and the Medical Marijuana Code for a purpose authorized by Section 14 of Article XVIII of the Colorado Constitution.

*Medical marijuana establishment* means a licensed medical marijuana center, medical marijuana infused product manufacturer, or optional premises cultivation operation.

*Medical marijuana center* means a person licensed by both the state and city to operate a business that sells medical marijuana to registered patients, primary caregivers, licensed medical marijuana centers, and medical marijuana infused product manufacturers.

*Medical marijuana infused product manufacturer* means a person licensed by both the state and city to operate a business that produces medical marijuana infused products for sale to medical marijuana centers.

*Optional premises cultivation operation* means the premises specified by a medical marijuana center licensee to be used to cultivate medical marijuana for a purpose authorized by the Colorado Medical Marijuana Code and Section 14 of Article XVIII of the State Constitution.

*School* means a public, kindergarten or school through twelfth grade (K—12), college, or university.

(b) In addition to the definitions set forth herein, the terms used in this article shall have the meaning ascribed to them in Section 14 of Article XVIII of the Colorado Constitution and the Colorado Medical Marijuana Code and its Rules.

**Section 56-236. License / bond requirements.**

(a) It shall be unlawful for any person to operate a medical marijuana establishment without obtaining a license to operate such business in accordance with the requirements of this article.

(b) The license requirement set forth in this article shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other federal, state, or local law, rule, or regulations, including, by way of example, the Medical Marijuana Code, its Rules, and any applicable local zoning or building code.

(c) All medical marijuana establishments which sell at retail, in addition to being required to obtain a city sales tax license, must as a condition of licensing, procure, maintain, and file with the city's finance department evidence of a good and sufficient bond in the amount of five thousand dollars (\$5,000.00) with a corporate surety duly licensed to do business in the State of Colorado, approved as to form by the city and conditioned upon the applicant's reporting and payment of all city sales and use taxes required by law.

(d) A separate license shall be required for each specific business or business entity and for each geographical location.

**Section 56-237. Screening and response to state licensing applications.**

(a) Upon receipt of an application from the state licensing authority for a medical marijuana license, the city clerk shall:

(1) Initially determine, in consultation with the planning department, whether or not the proposed location complies with all zoning and land uses laws of the city and all restrictions on locations and types of medical marijuana establishments permitted within the city as set forth in this article. If the city clerk makes an initial determination that the proposed license would be in violation of any zoning or land use law or other restriction set forth in the Code, the city clerk shall notify the state licensing authority in writing, that the application is disapproved by the city. The failure of the city clerk to make such a determination upon the initial review of a state license application shall not preclude the local licensing authority from determining that the proposed license is in violation of any zoning or land use law or other restriction set forth in the Code, and disapprove the issuance of a local license on this basis.

(2) For any application that is not disapproved, as provided in subsection 1 above, the city clerk shall notify the state licensing authority in writing that the city's further consideration of the application is subject to completion of the local licensing process described in this article, after which the city clerk will notify the state licensing authority in writing of whether or not the medical marijuana license proposed in the application has or has not been approved by the local licensing authority.

**Section 56-238. Application**

(a) Applications for local licenses shall be made on forms provided by the city clerk and shall include all materials required by the Colorado Medical Marijuana Code and its Rules.

(b) The applicant shall also provide the following information to the city, which information shall be required for the applicant, and as applicable, the manager of the medical marijuana establishment, and all persons having any financial interest in the medical marijuana establishment that is the subject of the application; to the extent that any of the following

information has been included with the applicant's state license application and forwarded to the city by the state licensing authority, the local licensing authority may rely upon the information forwarded from the state without requiring re-submittal of the same materials for the local license application.

- (1) Proof of insurance of workers' compensation insurance and public liability insurance, which at a minimum meets the current maximum liability amounts for injury to any single person, or for any injury to two or more persons in any such occurrence, as set forth in the Colorado Governmental Immunity Act (C.R.S. § 24-10-114), as same may be amended from time to time.
- (2) A completed zoning confirmation form from the city based upon an applicant's submittal of an area map drawn to scale, indicating within a radius of one thousand feet (1,000), as measured from the nearest portion of the footprint of the proposed medical marijuana establishment to the nearest property line of the land used or roadway rights-of-way boundary, for the properties which are subject to the location restrictions set forth in section 56-242.
- (3) An operating plan for the proposed medical marijuana establishment, including the following information:
  - (i) A description of the products and services to be provided by the medical marijuana establishment.
  - (ii) A dimensional floor plan, drawn to scale, clearly labeled, and showing:
    - (A) The layout of the structure and the floor plan in which the medical marijuana establishment is to be located;
    - (B) The principal uses of the floor area depicted on the floor plan, including, but not limited to, the areas where the public will be permitted, and all private, cultivation, storage, retailing, testing, and restricted areas where medical marijuana will be located;
    - (C) Areas where any services other than the distribution of medical marijuana are proposed to occur in the premises; and
- (4) The city shall require each medical marijuana establishment applicant to obtain and submit a report from an industrial hygienist to verify that the establishment's facility and its processes and procedures, which include, but are not limited to, the sale, storage, processing, extraction, washing, heating, cultivation, and packaging of marijuana, are in compliance with all applicable laws, rules, and regulations and adequately designed and operated to protect the establishment, its employees, customers, the general public, and adjacent properties.
- (5) A plan for disposal of any medical marijuana or medical marijuana infused product that is not sold in a manner that protects any portion thereof from being possessed or ingested by any person or animal.

- (6) A plan for ventilation of the medical marijuana establishment that fully describes the ventilation systems that will ensure the odor of marijuana cannot be detected by a person with a normal sense of smell at the exterior of the medical marijuana establishment or at any adjoining property. For medical marijuana establishments that cultivate marijuana, such plan shall also include all ventilation systems used to control the environment for the marijuana plants and describe how such systems operate in conjunction with the systems preventing any odor leaving the premises. For medical marijuana establishments that produce marijuana infused products, such plan shall also include all ventilation systems used to mitigate noxious gases or other fumes used or created as part of the production process.
- (7) Fingerprints and personal background information for all owners, and financiers employed by or under contract to provide services to the medical marijuana establishment, directly or as a member, partner, or officer of a corporation, partnership, association, or company.
- (c) All applications must include all documents and information required by the Medical Marijuana Code, including its Rules and any information that the city deems reasonably necessary for the investigation and review of the application.
- (d) Upon receipt of an application, the city clerk shall notify all affected departments of the city to determine whether the application is in full compliance with all state and local laws, rules, and regulations. The city clerk, upon review of all applicable information, shall prepare a report including all applicable documents to be submitted to the local licensing authority.
- (e) In the event the criminal history of an owner, member, manager, financier, or other person named on the application contains information regarding conviction of a crime or previous denial or revocation of any medical or retail marijuana or professional license, that person may include with the license application any information regarding such conviction, denial, or revocation. Such information may include, but is not limited to, evidence of rehabilitation, character references, and educational achievements, especially documentation pertaining to the period of time between the applicant's last criminal conviction and the date of the application.
- (f) Any application or renewal for a medical marijuana establishment license shall include, as applicable, payment of a nonrefundable application or renewal fee and payment of an annual operating fee. If a license is not granted, the operating fee is refundable in full. All such fees shall be established by resolution of city council.
- (g) A license issued pursuant to this article does not eliminate the need for the licensee to obtain other required permits or licenses related to the operation of the medical marijuana establishment, including, without limitation, any State of Colorado license or any sales tax license, business registration, development approvals, or building permits required by the Code.

**Section 56-239. Local licensing authority.**

- (a) The city administrator shall serve as the local licensing authority and have and exercise all powers expressly granted and necessarily implied by the Medical Marijuana Code, its Rules,

and as set forth in this article to regulate medical marijuana establishments within the city. The local licensing authority shall be responsible for all local duties and responsibilities regarding the issuance, renewal, suspension, revocation, transfer of ownership, and change of location of a medical marijuana establishment.

(b) The local licensing authority shall have the power to promulgate rules and regulations as are reasonable and necessary to implement and administer the requirements of this article.

(c) Upon receipt of a complete application from the city clerk, the local licensing authority shall review all applicable documentation, as well as any other facts pertinent to the license or qualifications of the licensee and issue a decision as to whether to grant, deny upon a finding of "good cause," or conditionally approve such application within fifteen (15) business days of receipt of same from the city clerk. The decision shall be in writing and state the reasons for the decision with a copy to be sent to the applicant at the establishment's address provided on the application.

(1) The local licensing authority shall have the authority to deny any application that does not meet the requirements of the Medical Marijuana Code, its Rules, this article, and any other applicable state or local law, rule, or regulation. The local licensing authority shall also have the authority to deny any application that contains any false, misleading, or incomplete information. Denial of an application for a license shall not be subject to administrative review but only to review by a court of competent jurisdiction.

(2) A local license, which shall only be applicable to a specifically identified business at a fixed location within an enclosed and secure premises, and shall not be issued until a state license has been granted and the building in which the establishment's business is to be conducted has passed all applicable inspections and is ready for occupancy with such furniture, fixtures, and equipment in place as are necessary to comply with any applicable provisions of this Code or any state law, rule, or regulation.

(d) The local licensing authority may, after notice and hearing, suspend, revoke, or refuse to renew a license for "good cause." The local licensing authority is authorized to adopt rules and procedures governing the conduct of such hearings. No portion of any application or operating fees previously paid shall be refunded in the event of any suspension or revocation of a license.

(e) *Good cause*, for the purpose of denying, refusing to renew, suspending, or revoking a license or exercising other discretionary authority granted the local licensing authority shall mean:

(1) The applicant or licensee has violated, does not meet, or has failed to comply with any of the terms, requirements, conditions, or provisions of this article, the Medical Marijuana Code, its Rules, or any applicable state or local law, rule, or regulation;

(2) The local licensing authority has determined that the applicant or licensee's character, record, or reputation is not satisfactory after consideration of factors which include, but are not limited to, the following:

- (i) The applicant or licensee has knowingly submitted a false application(s), made willful misrepresentations, or knowingly committed fraudulent acts;
  - (ii) The applicant or licensee has a criminal history of crimes of moral turpitude, which may include, for example, but not be limited to, murder, burglary, robbery, arson, kidnapping, sexual assault, and illegal drugs or narcotics convictions;
  - (iii) The applicant or licensee has had any previous retail or medical marijuana license denied or revoked as a result of violations of law, rule, or regulation or a finding of bad moral character by any licensing authority;
  - (iv) The applicant or licensee has been found to be currently delinquent in the payment of any state or local taxes;
  - (v) The applicant or licensee has an established pattern of multiple statutory violations which resulted in the revocation or denial of any other professional license, leading to the finding of bad moral character by any licensing authority;
  - (vi) The licensed premises have been operated in a manner that adversely affects the public health, safety, or welfare. Evidence to support such a finding, may include but not be limited to, a continuing pattern of disorderly conduct or drug related criminal conduct upon or in the immediate vicinity of the premises, continuing pattern of criminal conduct directly related to or arising from the operation of the medical marijuana establishment, or an ongoing nuisance condition emanating from or caused by the medical marijuana establishment.
  - (vii) When making a determination as to character, record, and reputation, the licensing authority shall also consider evidence of rehabilitation. Such evidence may include, but not be limited to, evidence of no criminal record information, educational achievements, financial solvency, community standing, lack of additional arrests or convictions, or the lack of parole or probation violations since the date of last conviction.
- (3) The applicant or licensee has failed to comply with any special terms or conditions of a license, including those terms and conditions that were established at the time of issuance of the license and those imposed as a result of any renewal or suspension proceedings held subsequent to the date of issuance of the license; or
- (4) The licensed premises has been operated in a manner that adversely affects the public health, welfare, or safety of the immediate neighborhood in which the licensed establishment is located. Evidence to support such a finding can include, without limitation, a continuing pattern of disorderly conduct, or a continuing pattern of drug-related criminal conduct within the establishment.

**Section 56-240            Issuance of license; duration, renewal.**

(a) Each license shall show the name of the licensee, the physical address for which the license is issued, and the type of medical marijuana establishment for which it is issued. The license, along with the city sales tax license and the current contact information for the owner(s), shall be displayed continuously in a conspicuous location at the physical address indicated on the license.

(b) Each license issued pursuant to this article shall be valid for one (1) year from the date of issuance and may be renewed only as provided in this article. All renewals of a license shall be for no more than one (1) year. The local licensing authority shall act on renewal applications received from the state licensing authority in accordance with the applicable provisions of the Colorado Medical Marijuana Code and its Rules. The timely filing of a renewal application shall extend the current license until a decision is made on the renewal.

(c) Notwithstanding subsection (b), a licensee whose license has been expired for not more than ninety (90) days may file a late renewal application upon the payment of a non-refundable late application fee to the local licensing authority in the amount established by resolution of city council. A licensee who files a late renewal application and pays the requisite fee may be subject to compliance with all applicable local, state, and federal laws, rules and regulations continue to operate until a decision is made on the renewal.

**Section 56-241. Annual operating fee.**

a) Upon, and as a condition of issuance of a license or any renewal of a license, the licensee shall pay to the city an annual operating fee in an amount established by resolution of city council. The annual operating fee shall be refunded if the application or renewal is denied.

**Section 56-242. Location, co-location, operational restrictions and requirements, medical marijuana establishments.**

(a) Medical marijuana centers are allowed only in Commercial Zoning Districts and only upon obtaining the land use approvals as are otherwise necessary for such use; and further provided that no medical marijuana center may be located within:

- (1) Five hundred (500) feet of the right-of-way of Public Road north of South Boulder Road; or
- (2) Five hundred (500) feet of the right-of-way of East Simpson Street, east of Public Road to 500-501 East Simpson Street; or
- (3) Five hundred (500) feet of the right-of-way of 120th Street and 119th Street, north of Emma Street to Highway 7; or
- (4) Eight hundred (800) feet of the right-of-way of Highway 287 and Highway 7; or
- (5) Five hundred (500) feet of any city residential subdivision, residentially zoned property, or property with residential as a principal use; or
- (6) Five hundred (500) feet of any licensed commercial day care; or

- (7) One thousand (1000) feet of any medical marijuana center or any retail marijuana store, except that any applicant seeking to co-locate a center and a store, shall be exempt from this requirement as to the center and store set forth in the application; or
  - (8) One thousand (1,000) feet of any school or hospital.
- (b) Medical marijuana infused product manufacturers and optional premises cultivation facilities are allowed only in the Industrial Zoning District, and only upon obtaining the land use approvals as are otherwise necessary for such use; and further provided that no such uses may be located within:
- (1) Five hundred (500) feet of a licensed commercial day care; or
  - (2) Eight hundred (800) feet of the right-of-way of Highway 287; or
  - (3) One thousand (1,000) feet of any school or hospital; or
  - (4) Five hundred (500) feet of any city residential subdivision, residentially zoned property, or property with residential as a principal use; and
  - (5) There may be no more than six (6) total physical (independent) locations containing any mix of licensed retail marijuana product manufacturers, licensed medical marijuana infused product manufacturers, licensed retail marijuana cultivation facilities, or licensed medical marijuana optional premises cultivation operations within the industrial zoning district category.
  - (6) The licensed premises of a medical marijuana infused product manufacturer, including any such establishment, which is co-located with a retail marijuana product manufacturer and the licensed premises of a medical marijuana optional premises cultivation facility, including any such establishment which is co-located with a retail marijuana cultivation facility shall not exceed ten thousand (10,000) square feet.
- (c) The distances set forth in this section are to be computed by direct measurement from the nearest property line or right-of-way boundary of the land uses set forth herein to the nearest portion of the footprint of the medical marijuana establishment.
- (d) The distance restrictions set forth in this section shall not affect the renewal of a license once granted or apply to a license in effect and actively doing business before the construction of, or the opening of, a residential subdivision, residentially zoned property, property with residential as a principal use, licensed commercial day care, school, or hospital.
- (e) The licensed premises of a medical marijuana center including any center co-located with a retail marijuana store shall not exceed three thousand (3,000) square feet.
- (f) Residential location prohibited. No medical marijuana establishment shall be located within any building which contains a residence or within any dwelling or residential zoning district.

(g) Co-location restrictions. Medical marijuana establishments and retail marijuana establishments may be under common ownership in the same location and share the same licensed premises, subject to the following:

(1) A licensed medical marijuana center that permits admittance of patients under twenty-one (21) years of age may also hold a retail marijuana store license and operate a dual marijuana business operation on the same licensed premises. In such case, the retail marijuana store licensee must post signage that clearly conveys that persons under twenty-one (21) years of age may not enter the area which contains the retail marijuana store. Under these circumstances, and upon approval of the local and state licensing authorities, the medical marijuana center and the retail marijuana store may share a common foyer but must have separate entrances and exits, and medical marijuana and retail marijuana goods and products must be separately displayed and sold. Record keeping for the business operations of both must enable the local and state licensing authorities to clearly distinguish the inventories and business transactions of medical marijuana and medical marijuana-infused products from retail marijuana and retail marijuana products.

(2) A licensed medical marijuana center that prohibits admission of patients under the age of twenty-one (21) years of age may also hold a retail marijuana store license and operate a dual marijuana business operation on the licensed premises. In such cases, the medical marijuana center must post signage that clearly conveys that persons under twenty-one (21) years of age may not enter the establishment. Under these circumstances and upon approval of the local and state licensing authorities the medical marijuana center and retail marijuana store may share the same entrances and exits. Medical marijuana and retail marijuana and medical marijuana-infused products and retail marijuana products must be displayed separately on the same sale floor. Record keeping for the business operations of both must enable the state and local licensing authority to clearly distinguish the inventories and business transactions of medical marijuana and medical marijuana-infused products from retail marijuana and retail marijuana product

(3) Co-located licensed operations must be operated in accordance with both the Medical and Retail Marijuana Code and their rules.

(h) Business Conducted Within Building. Any and all cultivation, production, distribution, possession, storage, display, sales, or other distribution of medical marijuana shall occur only within the restricted area of a medical marijuana establishment and shall not be visible from the exterior of the establishment.

(i) Manager Registration Requirements. Each medical marijuana establishment licensee shall manage or have a separate and distinct manager and shall register the manager of each establishment with the state and the local licensing authority. No person shall be a registered manager for more than one medical marijuana establishment. Whenever a person ceases to be a registered manager of a medical marijuana establishment, the medical marijuana establishment licensee shall notify the licensing authorities within five days and shall designate a new

registered manager within thirty days. Either the state or the local licensing authority may refuse to accept any person as a registered manager unless the person is satisfactory to the respective licensing authorities as to character, record, and reputation. In determining a registered manager's character, record, and reputation, the state or local licensing authority may have access to criminal history record information furnished by a criminal justice agency subject to any restrictions imposed by such agency.

(j) Hours of Operation. A medical marijuana center shall be closed to the public, and no sale, or other distribution of marijuana shall occur upon the premises between the hours of 7:00 p.m., thru and including 8:00 a.m.

(k) Use of Pesticides. No pesticides or insecticides that are prohibited by applicable law for fertilization or production of edible produce shall be used on any marijuana cultivated, produced, or distributed by a medical marijuana establishment. A medical marijuana establishment shall comply with all applicable laws regarding use of pesticides.

(l) Ventilation Required. A medical marijuana establishment shall be ventilated to ensure the odor of marijuana cannot be detected by a person with a normal sense of smell at the exterior of the medical marijuana establishment or at any adjoining property.

(m) Wastewater Requirements. All medical marijuana establishments shall be operated in such a manner as to not permit, allow, or cause to be discharged any substance or material prohibited by the city into or upon any watercourse or city reclamation conduit, facility, or plant.

(n) Off Premises Storage of Medical Marijuana and Medical Marijuana Infused Products Prohibited. No medical marijuana establishment may store medical marijuana or medical marijuana infused products in any off-premises storage facility located within the city.

(o) Limitations on Inventory. A medical marijuana establishment shall not maintain any more marijuana within the premises than the amount stated on the establishment's state and city license application. No marijuana plants shall be located in a medical marijuana center or a medical marijuana infused products facility. In addition, medical marijuana establishments shall not exceed the size or contain any more marijuana within the restricted area as set forth herein:

Infused Products Manufacturing Facility: 600 pounds of marijuana that has not been incorporated into a product and 150 pounds of medical marijuana infused product.

(p) Reporting Requirements. A medical marijuana establishment shall report to the local licensing authority each of the following events within the time specified. If no time is specified, the report shall be provided within 72 hours of the event.

(1) transfer or change of financial interest, business manager, or financier in the license to the city at least thirty days before the transfer or change.

(2) sales and taxable transactions and file sales and use tax reports to the city monthly.

(3) a violation of any law by any licensee or applicant of a medical marijuana business.

(4) each licensee shall post and keep at all times visible to the public, in a conspicuous place on the premises, a sign to be furnished by the city clerk's office, which sign shall be in the following form: "WARNING: THE LAFAYETTE POLICE DEPARTMENT MUST BE NOTIFIED IMMEDIATELY OF ALL UNLAWFUL ACTS AND DISTURBANCES IN THIS ESTABLISHMENT." Licensees shall immediately report to the police department any unlawful act, conduct, or disturbance committed upon the premises.

(q) Respond to Inquiry. The owner or manager of a medical marijuana establishment is required to respond by phone or email within 24 hours of contact by a city official concerning its medical marijuana establishment at the phone number or email address provided to the city as the contact for the business. Each 24 hour period during which an owner or manager does not respond to the city official shall be considered a separate violation.

(r) Signs and Advertising.

(1) Any person or premises licensed as a medical marijuana establishment shall comply with all city ordinances regulating signs and advertising. In addition, no licensed medical marijuana establishment shall use any advertising material that is misleading, deceptive, false, or that, as evidenced either by the content of the advertising material or the medium or the manner in which the advertising is disseminated, is designed to appeal to persons under eighteen (18) years of age.

(2) Except as otherwise provided in this subsection (2), it shall be unlawful for any person licensed under this article or any other person to advertise any medical marijuana or medical marijuana infused product anywhere in the city where the advertisement is visible to members of the public from any street, sidewalk, park, or other public place, including advertising utilizing any of the following media: any billboard or other outdoor general advertising device as defined by the zoning code; any sign mounted on a vehicle, any hand-held or other portable sign; or any handbill, leaflet, or flier directly handed to any person in a public place, left upon a motor vehicle, or posted upon any public or private property without the consent of the property owner. The prohibition set forth in this section shall not apply to:

(i) Any sign located on the same zone lot as a medical marijuana center which exists solely for the purpose of identifying the location of the medical marijuana center and which otherwise complies with the city's zoning requirements and any other applicable city laws and regulations; or

(ii) Any advertisement contained within a newspaper, magazine, or other periodical of general circulation within the city; or

(iii) Advertising which is purely incidental to sponsorship of a charitable event by a medical marijuana establishment.

(3) For purposes of this subsection (r), the terms “advertise,” “advertising,” or “advertisement,” mean the act of drawing the public’s attention to a medical marijuana establishment in order to promote the sale of medical marijuana goods or infused products by the establishment.

**Section 56-243. Limitations on medical marijuana infused products manufacturer and medical marijuana optional premises cultivation facility.**

(a) No medical marijuana infused product manufacturer shall be permitted to operate within the city unless the same licensee has a licensed medical marijuana optional premises cultivation facility located within the city.

**Section 56-244. Inspection of books, records, and licensed premises.**

(a) Each licensee shall keep a complete set of all records necessary to show fully the business transactions of the licensee, all of which shall be open at all times during business hours for the inspection and examination by the local licensing authority, its duly authorized representatives, and the city police department for the purposes of investigating and determining compliance with the provisions of this article and any other applicable state and local laws or regulations. The local licensing authority may require any licensee to furnish such information as it considers necessary for the proper administration of this article. It may also require an audit to be made of the books of accounts and records on such occasions as it may consider necessary by an auditor to be selected by the local licensing authority, who shall likewise have access to all books and records of the licensee.

(b) The licensed premises, including any places of storage where medical marijuana or medical marijuana infused products are stored, manufactured, packaged, cultivated, processed, displayed, sold, or dispensed, shall be subject to inspection by the local licensing authority, its duly authorized representatives, and the city police department during all business hours and other times of apparent activity, for the purpose of inspection or investigation. For examination of any inventory or books and records required to be kept by the licensees, access shall be required during business hours. Where any part of the licensed premises consists of a locked area, upon demand to the licensee, by the local licensing authority or any other authorized city personnel, such area shall be made available for inspection without delay.

(c) Each licensee shall retain all books and records necessary to show fully the business transactions of the licensee for a period of the current tax year and the three immediately prior tax years.

**Section 56-245. Unlawful acts of licensees and persons.**

(a) It shall be unlawful for any licensee to:

(1) Violate or fail to comply with any provision, term, condition, or requirement of the Medical Marijuana Code, including its Rules.

(2) Allow marijuana or marijuana infused products to be consumed upon its licensed premises.

- (3) Use advertising material that is misleading, deceptive, false, or that is designed to appeal to persons under eighteen (18) years of age.
- (4) Sell medical marijuana or marijuana infused products to a person under eighteen (18) years of age or to any person who does not present a valid state medical marijuana registry card at the time of purchase.
- (5) Refuse to allow inspection of a medical marijuana establishment upon request of an authorized city employee. Any licensee, owner, business manager, operator of a medical marijuana establishment, or owner of the property where a medical marijuana establishment is located may be charged with this violation.
- (6) Advertise or publish materials or display signs that are in violation of this article.
- (7) Violate any provision of this article or any condition of an approval granted pursuant to this article, or any law, rule, or regulation applicable to the use of medical marijuana or the operation of a medical marijuana establishment.
- (8) Distribute medical marijuana or any medical marijuana infused product within a medical marijuana center to any person who shows visible signs of intoxication from alcohol, marijuana, or other drugs.

(b) It shall be unlawful for any person to engage in any form of business or commerce involving the cultivation, processing, manufacturing, storage, sale, distribution, or consumption of marijuana other than those forms of business and commerce that are expressly permitted by Section 14 of Article XVIII of the Colorado Constitution, the Medical Marijuana Code, Retail Marijuana Code, Medical Marijuana Program (C.R.S. § 25-1.5-106), this article, and residential cultivation, section 76-31 of the Code, which permit only medical marijuana optional premises cultivation facilities, medical marijuana infused products manufacturers, medical marijuana centers, co-located marijuana establishments, and primary care-giver home occupations.

**Section 56-246. No city liability; indemnification.**

(a) By accepting a license issued pursuant to this article, the licensee waives and releases the city, its officers, elected and appointed officials, employees, attorneys, agents, and authorized volunteers from any liability for injuries, damages, or liabilities of any kind that result from any arrest or prosecution of the owners, operators, employees, clients, or customers of the medical marijuana establishment for a violation of state or federal laws, rules, and regulations.

(b) By accepting a license issued pursuant to this article, all licensees, jointly and severally, if more than one, agree to indemnify, defend, and hold harmless the city, its officers, elected and appointed officials, employees, attorneys, agents, authorized volunteers, insurers, and self-insurance pool against all liability, claims, and demands on account of any injury, loss, or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever arising out of or are in any manner connected with the operation of the medical marijuana establishment that is the subject of the license.

**Section 56-247 Other laws remain applicable.**

(a) Except as specifically provided herein, to the extent the state adopts any additional or stricter law, rule, or regulation, governing the sale, transportation, manufacture, cultivation, processing, packaging, displaying, or distribution of medical marijuana or medical marijuana infused products, the additional or stricter regulation shall control the operation of any medical marijuana establishment in the city. Compliance with any applicable state law or regulation shall be deemed an additional requirement for issuance or denial of any license or operation of any establishment under this article, and noncompliance with any applicable state law or regulation shall be grounds for non-renewal, revocation, or suspension of any license issued hereunder.

(b) Any licensee may be required to demonstrate, upon demand by the local licensing authority, its authorized representative, or law enforcement officers, that the source and quantity of any marijuana grown upon the licensed premises are in full compliance with any applicable state law or regulation.

(c) If the state or federal government prohibits the sale, transportation, manufacture, cultivation, processing, packaging, testing, or distribution of marijuana through medical marijuana establishments, any license issued hereunder shall be deemed immediately revoked by operation of law, with no ground for appeal or other redress available, on behalf of the licensee.

(d) The issuance of any license pursuant to this article shall not be deemed to create an exception, defense, or immunity to any person in regard to any potential criminal liability the person may have for the transportation, packaging, manufacturing, cultivation, possession, sale, distribution, testing, or use of marijuana.

Section 3. If any article, section, paragraph, sentence, clause, or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

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

Section 5. The repeal or modification of any provision of the Code of Ordinances of Lafayette, Colorado by this ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision. Each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings, and prosecutions for enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

Section 6. This ordinance is deemed necessary for the protection of the health, welfare, and safety of the community.

Section 7. Violations of this ordinance shall be punishable in accordance with Section 1-10 of the Municipal Code of the City of Lafayette, Colorado.

**Section 8.** This ordinance shall become effective upon the latter of the 10<sup>th</sup> day following enactment or the day following final publication of the ordinance.

INTRODUCED AND PASSED ON FIRST READING THE 18TH DAY OF  
FEBRUARY, 2014.

PASSED ON SECOND AND FINAL READING AND PUBLIC NOTICE ORDERED  
THE \_\_\_\_\_ DAY OF \_\_\_\_\_ 2014.

CITY OF LAFAYETTE, COLORADO

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Christine Berg, Mayor

ATTEST:

APPROVED AS TO FORM:

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Susan Koster, CMC  
City Clerk

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David S. Williamson, City  
Attorney

## **STAFF REPORT**

To: Gary Klaphake, City Administrator  
From: Susan Koster, City Clerk  
Date: February 27, 2014  
Subject: Resolution No. 2014-13 / Establishing Fees for Licensing Retail Marijuana Operations and Amending Fees for Licensing Medical Marijuana Operations

**Recommendation:** Council Motion to Approve Resolution No. 2014-13 / Establishing Fees for Licensing Retail Marijuana Operations and Amending Fees for Licensing Medical Marijuana Operations.

**Background:** Ordinance No. 04, Series 2014 establishes rules and regulations for licensing retail marijuana operations. Ordinance No. 05, Series 2014 repeals and reenacts the existing rules and regulations for licensing medical marijuana operations in order to standardize procedures for all classes of marijuana business licenses.

An estimate of staff time was determined for each service associated with the licensing of retail marijuana businesses and a fee survey was conducted of other jurisdictions that license these operations. The attached resolution proposes fees that are reasonably related to the review, inspection, investigative and operational costs and expenditures incurred for retail marijuana business licenses. In addition, the resolution amends fees associated with medical marijuana licensing so that they agree with those established for retail marijuana.

**Fiscal Impact:** Fees collected in association with licensing of marijuana business operations

**Attachment:** Resolution No. 2014-13

**CITY OF LAFAYETTE  
RESOLUTION NO. 2014-13**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAFAYETTE,  
COLORADO ESTABLISHING FEES FOR THE LICENSING OF RETAIL  
MARIJUANA BUSINESSES AND AMENDING FEES FOR THE LICENSING OF  
MEDICAL MARIJUANA BUSINESSES**

**WHEREAS**, Section 5-4 of the Code of Ordinances provides that City Council shall by resolution establish fees for municipal programs, goods and services; and

**WHEREAS**, Section 56 of the Code of Ordinances establishes a local licensing authority responsible for duties and responsibilities regarding the issuance, renewal, suspension, revocation, transfer of ownership, and change of location of retail and medical marijuana establishments; and

**WHEREAS**, Council wishes to establish fees associated with the administrative services associated with licensing medical and retail marijuana businesses; and

**WHEREAS**, based on the information provided by staff, City Council finds that the proposed fees are reasonably related to the City's actual review, inspection, investigative and operational costs and expenditures incurred for medical and retail marijuana business licenses.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE  
CITY OF LAFAYETTE, COLORADO AS FOLLOWS:**

City Council does hereby amend Exhibit A of Resolution 2008-66 by revising the City of Lafayette Fee Schedule according to Attachment A of this resolution.

RESOLVED AND PASSED THIS 4th DAY OF MARCH, 2014

**CITY OF LAFAYETTE, COLORADO**

\_\_\_\_\_  
Christine Berg, Mayor

**ATTEST:**

\_\_\_\_\_  
Susan Koster, CMC  
City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
David Williamson, City Attorney

**MEDICAL AND RETAIL MARIJUANA LICENSING FEES**

**Attachment A**

<b>STORE</b>		<b>APPLICATION FEE / LICENSE FEE</b>	
New Application		\$3,000	\$2,000
Transfer Ownership		\$3,000	\$2,000
Renewal		\$1,500	\$2,000
Operating Fee		\$3,000	
<b>CO-LOCATION</b>		<b>APPLICATION FEE / LICENSE FEE</b>	
New Application		\$3,000	\$2,000
Transfer Ownership		\$3,000	\$2,000
Renewal		\$1,500	\$2,000
Operating Fee		\$3,000	
<b>CULTIVATION</b>		<b>APPLICATION FEE / LICENSE FEE</b>	
New Application		\$3,000	\$2,000
Transfer Ownership		\$3,000	\$2,000
Renewal		\$1,500	\$2,000
Operating Fee		\$3,000	
<b>PRODUCT MFG</b>		<b>APPLICATION FEE / LICENSE FEE</b>	
New Application		\$3,000	\$2,000
Transfer Ownership		\$3,000	\$2,000
Renewal		\$1,500	\$2,000
Operating Fee		\$3,000	
<b>TESTING FACILITY</b>		<b>APPLICATION FEE / LICENSE FEE</b>	
New Application		\$3,000	\$2,000
Transfer Ownership		\$3,000	\$2,000
Renewal		\$1,500	\$2,000
Operating Fee		\$3,000	
<b>ADMINISTRATIVE SERVICES FEES</b>			
CONVERSION MMJ TO RMJ		\$250	
(established by the State)			
BACKGROUND		\$750/per person	
INVESTIGATION			
CHANGE BUSINESS		\$200	
MANAGER			
PROCESSING FEE / SUPPORT		\$100/person	
EMPLOYEE APPLICATION			
MODIFICATION OF		\$500	
PREMISES			
CHANGE OF		\$2,000	
LOCATION			
PENDING APPLICATION		\$500	
MODIFICATION			
LATE RENEWAL FEE		\$750	
LICENSE MODIFICATION		\$500	
CHANGE OF CORPORATE		\$200/person	
STRUCTURE			
CHANGE OF FINANCIER		\$1,500	
ZONING VERIFICATION		\$100	
DUPLICATE LICENSE		\$50	
TEMPORARY PERMIT (TRANSFER)		\$2,500	



## STAFF REPORT

To: Gary Klaphake, City Administrator  
From: Monte Stevenson, Director of Parks, Open Space and Golf  
Date: February 26, 2014  
Subject: Resolution No. 2014-14 / Amending Golf Course Fees

**Recommendation:** Approval of Resolution No. 2014-14 to amend Exhibit B Golf Course Fees at Indian Peaks Golf Course

**Background:** On an annual basis Indian Peaks professional staff reviews golf course fees to determine whether adjustments need to be made. A market survey of Front Range golf courses has been performed in order to assess our price points for marketing and sustaining the golf course as a competitive business. We also carefully examine our total expenditures and adjust our fees to keep pace with the cost-of-doing business.

A market survey conducted annually by the Public Golf Operators of Colorado reveals a mixed response to fee increases along the Front Range. Golf courses maintaining quality conditions are incrementally keeping pace with rising costs in order to maintain competitive conditions. Out of 100 Front Range public golf courses surveyed, Indian Peaks ranked #5 in the revenue-per-round category (revenue-per-round provides an equitable comparison between golf courses by translating all rounds into 18-hole equivalents). Indian Peaks also ranked #6 in total rounds out of the top 14 competitors. In conclusion, Indian Peaks has created a niche for servicing above average annual rounds in comparison to its competitors, while producing at the higher end of the revenue spectrum. While golf rounds declined slightly as a whole across the Front Range (mainly due to an unusually wet March and April), rounds remain resilient in the industry.

In the winter of 2013-14, golf staff have undertaken to replace software vendors for the point-of-sale and the customer online interface. We believe the advantages of the conversion will provide enhanced customer care and options for marketing. Integral to the new software is the unique advantage to offer pricing options based on advanced tee time intervals. Golfers may book a tee time for a lower price point if booked in advance. While this advantage may not include peak play times, it should provide some advantage to those who are loyal to Indian Peaks. Residents of Lafayette would continue to benefit from the Resident Awards Program, which provides on average of 10% back in award points.

Indian Peaks is well known for its quality and commitment to customer service. We are also gaining a reputation for innovative offerings for those who are considering taking up the sport of golf. In 2012-13, Indian Peaks more than doubled the participation and accompanying revenue for lessons and group clinics, such as the "Get Golf Ready" programs. In addition, men's and ladies leagues have been expanded to accommodate the increase in demand. Another golf offering, which provides for youth under the age of 17 to play for free with a paying adult, also provides a welcomed value for families. Other offerings include both a Senior and Junior rate as well as the Preferred Player Program where loyalty is rewarded with reduced prices and one free round of golf for every ten rounds played. *More information on offerings may be found online at [www.indianpeaksgolf.com](http://www.indianpeaksgolf.com)*

In conclusion, a review of the Front Range public golf course survey demonstrates a strong standing for Indian Peaks within the competitive market. It is staff's recommendation to increase green fees by two dollars for 18-hole play and one dollar for 9-holes. Staff recommends no increase in cart rates at this time.

This recommendation for amending fees will help defray increasing expenditures; such as fuel, utilities, equipment, labor and water costs; and to sustain the needed funding for continued capital replacement and improvements. Indian Peaks golf course also provides 10% of its gross revenues back to the City, which in turn helps support other recreational and general fund opportunities.

The following table demonstrates the proposed amended fee structure:

Fee Description	Current Fees	Proposed Fees
Weekday – 9 Hole	25	26
Weekday – 18 Hole	42	44
Weekday – Juniors / 9 Holes	16	17
Weekday – Juniors / 18 Holes	27	29
Weekday – Seniors / 9-Holes	22	23
Weekday – Seniors / 18-Holes	37	39
Weekend – 9 Hole	27	28
Weekend – 18 Hole	49	51
Golf Car – 9 Holes	9	9
Golf Car – 18 Holes	15	15

**Fiscal Impact:** Estimated increase to annual revenues is \$67,700.

**Attachments:** Survey  
Resolution No. 2014–14



## Golf Course Green Fees Survey - 2014

	<b>Golf Course</b>	<b>City</b>	<b>Weekday 18</b>	<b>Weekend 18</b>	<b>Senior - Wkday</b>	<b>Junior - Wkday</b>
1	Omni Interlockin	Broomfield	130	130	130	40
2	Colorado National Golf Club	Erie	75	85	45	30
3	Red Hawk Ridge	Castle Pines	72	82	55	32
4	Highlands Ranch	Highlands Ranch	60	72	48	31
5	Fossil Trace	Golden	58	68	33	29
6	Green Valley Ranch	Denver	52	67	41	30
7	Pelican Lakes	Windsor	50	66	45	22
8	Common Ground	Denver	52	52	32	16
9	Heritage Todd Creek	Thornton	42	52	42	44
10	Saddle Rock	Aurora	40	51	31	24
11	Fox Hollow	Lakewood	40	51	33	20
12	<b>Indian Peaks</b>	<b>Lafayette</b>	<b>42</b>	<b>49</b>	<b>37</b>	<b>27*</b>
13	Legacy Ridge	Westminster	40	45	28	10
14	The Heritage at Westmoor	Westminster	40	45	25	10
15	Riverdale Dunes	Adams County	39	46	39	39
16	The Broadlands	Broomfield	35	45	27	27
17	West Woods	Arvada	37	43	28	19
18	Ute Creek	Longmont	36	41	29	22
19	Flatirons	Boulder	33	38	27	23
	*Indian Peaks also has a Youth Junior Pass (April - September) Mon-Thurs after 11 am - \$225 unlimited golf, includes range balls					

**CITY OF LAFAYETTE  
RESOLUTION NO. 2014 – 14**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAFAYETTE,  
COLORADO, REVISING THE STRUCTURE OF GOLF FEES FOR THE INDIAN  
PEAKS GOLF COURSE**

**WHEREAS**, Section 5-4 of the Code of Ordinances of the City of Lafayette provides that City Council shall establish, by resolution, fees for municipal programs, goods and services; and

**WHEREAS**, such ordinance provides in recognition of existing case law in Colorado that the purpose of such fees is to defray the City’s costs of providing the programs, goods or services and that the amount of fees shall be reasonably related to such City’s costs; and

**WHEREAS**, the City Council has determined that it wishes to increase the fees for golf play at the Indian Peaks Golf Course to remain competitive and to defray increasing expenditures;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LAFAYETTE, COLORADO**, as follows:

City Council does hereby amend Exhibit B of Resolution 2008-66 by revising the fee structure to the following:

**INDIAN PEAKS GOLF COURSE**

Fee Description	Proposed Fee
Weekday – 9 Hole	\$26
Weekday – 18 Hole	\$44
Weekday – Juniors / 9 Holes	\$17
Weekday – Juniors / 18 Holes	\$29
Weekday – Seniors / 9-Holes	\$23
Weekday – Seniors / 18-Holes	\$39
Weekend – 9 Hole	\$28
Weekend – 18 Hole	\$51
Golf Car – 9 Holes	\$9
Golf Car – 18 Holes	\$15

**PASSED AND ADOPTED** this 4<sup>th</sup> day of March, 2014.

**CITY OF LAFAYETTE, COLORADO**

**ATTEST:**

\_\_\_\_\_  
Christine Berg, Mayor

\_\_\_\_\_  
Susan Koster, CMC  
City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
David Williamson, City Attorney



## STAFF REPORT

To: Gary Klaphake, City Administrator  
From: Douglas Short, P.E., Public Works Director  
Date: February 25, 2014  
Subject: Contract / Outlot B Greenlee Reservoir Drainage Improvement / Dan's Custom Construction

**Recommendation:** Approval of Contract with Dan's Custom Construction for the rebuild of the drainage system in Outlot B of Indian Peaks Filing #8 in the amount not to exceed \$104,900.

**Background:** In 2012, during the replacement of the failing water mains in the Mesa Circle/North Fork Drive area, Public Works staff observed that the storm drain system in this area was not functioning properly. Upon further investigation, the detention pond system was found to be silted in and the stormwater collection system outlets were clogged and not allowing the storm water to drain properly. In March of 2013, Council approved a contract with Brown Civil Engineering to redesign this drainage system so that it functions correctly and that it can be maintained into the future.

The design has been completed and bids have been solicited. The following bids were received in an open bid process on February 14<sup>th</sup> at City Hall:

DeFalco Construction	\$179,550.00
EZ Excavating	\$156,170.05
Dan's Custom Construction	\$104,900.00
L&M Enterprises	\$152,778.23

Staff and Brown Civil Engineer performed an extensive background and reference check on Dan's Custom Construction and found very favorable reports from other neighboring cities and towns.

Meeting with the HOA and property owners to review the project will be in April before construction begins.

**Fiscal Impact:** Funds for this project have been budgeted in 43-451-8890 Misc. Services, which has a total budget of \$163,500 in 2014.

**Attachments:** None



## STAFF REPORT

To: Gary Klaphake, City Administrator  
From: Douglas Short, P.E., Public Works Director  
Date: February 26, 2014  
Subject: Informational Staff Report / Curbside 3-Cart Pay-As-You-Throw Program

**Recommendation:** Informational - No action requires at this time.

**Background:** In 2005/2006, City Council had a goal to develop a curbside, 2- Cart (Trash & Recycle) Pay-As-You-Throw (PAYT) program in the non-HOA areas of Lafayette. In early 2006, I wrote a Request for Proposals (RFP) to solicit bids from solid waste companies to provide this service. In August of 2006, a public hearing was held and bids were reviewed with City Council. The lowest qualified bidder was Western Disposal from Boulder. After contract negotiations and a delay as the Boulder County Materials Recycling Facility converted to single-stream recycling, Lafayette's PAYT 2-Cart program was started in October, 2007. The original contract was for 5-years, and to allow time for recycling data to be collected in the HOA areas, two one-year extensions were approved by City Council and Western Disposal. Those two one-year extensions expire in July of this year.

While the 2014/2015 Council Goal to expand the current program to a 3-Cart Program to include organic collection and also to include HOAs is on the "Parking Lot" list, I will need to work on this goal due to contractual issues, as noted above.

Therefore my plan is to write another RFP to expand the current program to a 3-Cart PAYT Program. My plan is to return to Council sometime in early summer with the proposals and to discuss the bids to see if a 3-Cart PAYT program is best for Lafayette.

I will not be including the HOAs in this RFP for several reasons;

- They already met the criteria that a single hauler covers their neighborhood instead of multiple haulers.
- While some HOAs still use the smaller little tubs or containers for recycling, most use the large 96-gallon cart for recycling which creates a higher diversion rate.
- Do not want to "force" HOAs to join this 3-Cart Program unless there is willingness on their part.

I will also be coming back to Council to amend *Chapter 100 Solid Waste* to encourage HOA's to join the City's 3-Cart Program and to encourage the universal use of the 96-gallon cart for recycling.

**Fiscal Impact:** No direct cost to City has these rates are a "pass through" on the Lafayette Utility bill.

**Attachments:** None

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Expenditures For Approval  
March 4, 2014

**Parks/Open Space/Golf**

Stone Motors	\$36,209.00
Super Duty Diesel Truck	
\$29,036.00 approved 2/18/14	

**Public Works**

Harcros Chemical Inc	\$50,000.00
2014 Water Reclamation Chemicals	

Polydyne Inc	\$55,000.00
2014 Water Reclamation Chemicals	

Merrick & Company	\$10,141.00
11/30-12/31 S Boulder Creek Diversion Services	

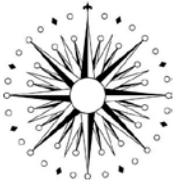
Water Technology Group	\$16,251.44
Replace #2 South RAS Pump	

**Human Resources**

The Community Foundation	\$25,000.00
2014 Legacy Fund Contribution	

**Administration**

Humane Society of Boulder Valley	\$14,043.00
2014 Construction Contribution	



## **STAFF REPORT**

To: Gary Klaphake, City Administrator  
From: Curt Cheesman, Director, Recreation & Facility Management  
Date: March 11, 2014  
Subject: Senior Advisory Board Appointments – Bob Hanes & Patricia A. Brazee

**Recommendation:** Staff seeks Council approval for the appointment of new 1<sup>st</sup> and 2<sup>nd</sup> Alternate Board Members for the Senior Advisory Board

**Background:**

The Senior Advisory Board seeks to appoint Bob Hanes to fill the 1<sup>st</sup> Alternate position and Patricia A. Brazee to fill the 2<sup>nd</sup> Alternate position on the Senior Advisory Board.

Bob Hanes was approved by the Senior Advisory Board in their January 8, 2014 Board meeting. Patricia A. Brazee was approved by the Senior Advisory Board in their February 12, 2014 Board meeting.

The effective term for each of these positions is January 1, 2014 through December 31, 2017. With these appointments the Senior Advisory Board will have all Board and Alternate Board positions filled.

**Fiscal Impact:** None.

**Attachments:** None.



NATIONAL NUTRITION MONTH PROCLAMATION  
MARCH 2014

WHEREAS, food is the substance by which life is sustained; and

WHEREAS, the type, quality, and amount of food that individuals consume each day plays a vital role in their overall health and physical wellness; and

WHEREAS, there is a need for nutrition services for older adults including congregate meal-sites and home-delivered meals, nutrition education and a wide-scale effort to enhance good eating practices; and

WHEREAS, the City of Lafayette congregate meal-site, the Eat, Meet N' Greet Café, at the Josephine Commons location and Home Delivered Meals by Coal Creek Meals on Wheels strives to enhance the strengths of older adults through nutrition choices, provide dietary sound meals, and connect older adults to the community and each other; and

WHEREAS, in 2013 while operating at Josephine Commons, the congregate meal site operated by the Lafayette Senior Services, served 9,521 meals to persons ages 60 and older; and

WHEREAS, in January 2014, the congregate meal site served 1, 051 meals, and anticipates serving over 10,000 meals in 2014;

NOW THEREFORE, that the Mayor and City Council of Lafayette do hereby proclaim March as NUTRITION MONTH IN LAFAYETTE, COLORADO and call on all citizens to join with us in the campaign to end senior hunger and become concerned about nutrition of older adults and all others in the hope of achieving optimum health for both today and tomorrow.

PASSED AND RESOLVED THIS 4<sup>TH</sup> DAY OF MARCH 2014.

CITY OF LAFAYETTE

\_\_\_\_\_  
Christine Berg, Mayor

ATTEST:

\_\_\_\_\_  
Susan Koster, City Clerk

## **Remote Attendance at Municipal Meetings**

Remote Attendance is defined as the ability of a member of a public body to attend a meeting by telephone, video, or internet connection from a remote location that may or may not be open to the public. The following categories and bullet points were drawn from several public bodies' policies on remote attendance.

**Formal Authorization Required** (through adoption of a policy, rule change, ordinance, by motion)

### **Qualifying Conditions**

- Member's personal illness or disability
- Member's employment requires him/her to be out-of-town
- Emergency in member's family or other emergency
- Member is conducting City-related business while away (only reason allowed)

### **Applicability**

- All committees, boards and commissions
- Only applicable to Council
- Mayor and Chairpersons not allowed to participate remotely

### **Limitations**

- An individual member may participate remotely in no more than 2 meetings per year, or 25% of the total meetings for the year (whichever is less)
- Remotely connected member may not participate in executive sessions
- The policy shall only apply to regular and special meetings of the City Council

### **Rights of Remote Member**

- Shall be heard and considered as in the case of any member
- May leave a meeting upon announcement and return as in the case of any member

### **Procedural Requirements**

- Physically assembled quorum required
- Remote participation must be approved by majority vote of those physically assembled
- Remote member's voice must be heard by all and remote member must be able to hear all other members
- Prior notification to the Mayor of absence, identifying nature of the emergency (24 hours before the meeting)
- Non-voting members (city attorney, city administrator, or staff) may participate via audio or video conference without establishing rules, however participation shall be made upon the request of the Mayor or any two Council members.
- The reason for remote participation and the remote location must be recorded in the minutes

### **Voting / Quorum (some allow and some don't)**

- Electronic attendance constitutes a member's presence for purposes of establishing a quorum
- Phone participation is not sufficient for establishing a quorum
- Remote voting is allowable on a meeting-by-meeting basis
- Remote voting is not allowed in quasi-judicial proceedings
- Remote voting is not allowed (physical presence required for vote)