

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 (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) 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.
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Testing Facility:	100 pounds of marijuana that has not been incorporated into a product and 100 pounds of retail marijuana product.
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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 10th 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 4TH DAY OF MARCH 2014.

CITY OF LAFAYETTE, COLORADO

Christine Berg, Mayor

ATTEST:

APPROVED AS TO FORM:

Susan Koster, CMC
City Clerk

David S. Williamson, City
Attorney