

**2014 CITY COUNCIL MAYORAL PLATFORMS  
MUNICIPAL BUILDING, 1777 BROADWAY  
Tuesday, November 12, 2013  
5 p.m. to 6 p.m.**

**BOULDER CITY COUNCIL MEETING  
MUNICIPAL BUILDING, 1777 BROADWAY  
Tuesday, November 12, 2013  
6 p.m.**

**AGENDA**

1. **CALL TO ORDER AND ROLL CALL**
2. **CONSENT AGENDA** (to include first reading of ordinances) Vote to be taken on the motion at this time. (Roll call vote required)
  - A. **Third reading** and consideration of a motion to adopt **Ordinance No. 7941 creating a pilot project allowing electric assisted bicycles on certain hard surfaced multi-use paths** by amending Definitions in Sections 1-2-1- and 7-1-1 **and** amending Sections 7-4-16, 7-5-5 and 7-5-9 and adding Section 7-5-26 authorizing electric assisted bicycles where permitted by rule adopted by the City Manager, **establishing a sunset date of December 31, 2014**
3. **POTENTIAL CALL- UP CHECK IN**

Opportunity for Council to indicate possible interest in the call- up of an item listed under agenda Item 8-A1.

**ORDER OF BUSINESS**

4. **PUBLIC HEARINGS**
  - A. **Continuation of second reading** and consideration of three **emergency ordinances all to implement** and comply with the requirements of **Amendment 64** to the Colorado State Constitution and implement Council direction as follows:
    1. **Ordinance No. 7929 amending Section 6-14, "Medical Marijuana," B.R.C., 1981;**  
and
    2. **Ordinance No. 7930 adding a new Chapter 6-16, "Recreational Marijuana," and a new Section 4-20-67, "Recreational Marijuana Businesses," B.R.C., 1981;** and

3. Ordinance No. 7931 amending Section 5-10, “Marijuana Offenses,” B.R.C., 1981

5. MATTERS FROM THE CITY MANAGER

None

7. MATTERS FROM THE CITY ATTORNEY

None

8. MATTERS FROM MAYOR AND MEMBERS OF COUNCIL

A. Potential Call-Ups

None

9. PUBLIC COMMENT ON MATTERS (15 min.) Public comment on any motions made under Matters.

10. FINAL DECISIONS ON MATTERS Action on motions made under Matters.

11. DEBRIEF (5 Min.) Opportunity for Council to discuss how the meeting was conducted

12. ADJOURNMENT

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**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: NOVEMBER 12, 2013**

**AGENDA TITLE:** Third reading and consideration of a motion to adopt ordinance No. 7941 creating a pilot project allowing electric assisted bicycles on certain hard surfaced multi-use paths by amending Definitions in Sections 1-2-1- and 7-1-1 and amending Sections 7-4-16, 7-5-5 and 7-5-9 and adding Section 7-5-26 authorizing electric assisted bicycles where permitted by rule adopted by the City Manager, establishing a sunset date of December 31, 2014.

**PRESENTER/S**

Jane S. Brautigam, City Manager  
Tom Carr, City Attorney  
Paul J. Fetherston, Deputy City Manager  
Bob Eichem, Chief Financial Officer  
Maureen Rait, Executive Director of Public Works  
Tracy Winfree, Director of Public Works for Transportation  
Michael Gardner-Sweeney, Transportation Planning and Operations Coordinator  
Kathleen Bracke, GO Boulder Program Manager  
Jeff Haley, Parks Planner, Parks and Recreation Department  
Dean Paschall, Communication & Public Process Manager, Open Space and Mountain Parks  
Carey Weinheimer, Traffic Commander, Boulder Police Department  
Molly Winter, Executive Director of Downtown, University Hill and Parking Services  
Marni Ratzel, Senior Transportation Planner

**EXECUTIVE SUMMARY**

The purpose of this item is for City Council to consider adoption of an ordinance to authorize a pilot project allowing use of electric assisted bicycles (E-bikes) on hard-surface multi-use paths, not including paths on Open Space and Mountain Park lands. The draft ordinance is included as **Attachment A**.

The draft ordinance enables the City Manager, under rulemaking authority, to regulate the hard-surface paths where a person may activate the motor of an e-bike and establishes a sunset date of Dec. 31, 2014. During the pilot project, the definition of a motorized vehicle will be amended to exclude an e-bike. The ordinance will also amend the definition of an e-bike to conform to state law. The pilot project duration allows for data collection, evaluation, community input, and quarterly updates to the City Council on the pilot findings.

The draft ordinance also includes the following changes approved by council on second reading on Oct. 29, 2013:

- Any rule adopted by the city manager in accordance with Chapter 1-4, Rulemaking. B.R.C. 1981 shall not include paths or trails on open space land, as defined in the City Charter, Section 170; and
- The use of electric assisted bicycles, whether the motor is activated or not, is prohibited on sidewalks and on open space land, as defined in the City Charter, Section 170.

Council members also provided guidance on the evaluation program to clarify and ensure that minor incidents and accidents involving an e-bike and the types/models of e-bikes that are involved in accidents are tracked.

**Attachment B** shows hard-surface multi-use paths on city land managed by OSMP. Public Works for Transportation is responsible for both routine and capital maintenance of all of these hard surface paths, which are maintained to a transportation standard. To facilitate a viable travel option for commuters completing trips by bike, snow/ice and debris removal is prioritized and anticipated by community members. Transportation and OSMP staff are working in partnership to refine the map based on property acquisition research and management practices.

## **BACKGROUND**

As part of the city's Transportation Master Plan (TMP) update, the Transportation Division is introducing a "Complete Streets Bike and Pedestrian Living Laboratory" to test innovative treatments and programs to see if they are appropriate for Boulder. The pilot project is being proposed to evaluate behavior of e-bike users and determine whether these vehicles can co-exist with current users on multi-use paths.

Additional background and board recommendation information can be viewed as part of the Oct. 1 first reading and Oct. 29 second reading packets available at <https://bouldercolorado.gov/city-council/city-council-meetings>.

## **STAFF RECOMMENDATION**

Staff considered several alternatives for defining and regulating e-bikes in the City of Boulder. The staff recommended option for both defining and regulating an e-bike is Option 2. These options propose to amend the definition of an e-bike to be consistent with state law and allow a pilot project to test e-bike use on hard-surface, multi-use paths in the City of Boulder except paths on OSMP managed land.

If approved by City Council, the e-bike pilot project will begin in December 2013 and run through Dec. 31, 2014.

**Suggested Motion Language:**

Staff requests council consideration of this matter and action in the form of the following motion:

Motion to adopt an ordinance creating a pilot project allowing electric assisted bicycles on certain hard surfaced multi-use paths by amending Definitions in Sections 1-2-1- and 7-1-1 and amending Sections 7-4-16, 7-5-5 and 7-5-9 and adding Section 7-5-26 authorizing electric assisted bicycles where permitted by rule adopted by the City Manager, establishing a sunset date of December 31, 2014.

**OPTIONS**

Options were provided throughout the public involvement process and are described and evaluated in the first and second reading memos provided to City Council. Links to those documents are provided here:

Oct. 1, 2013 – [First reading memo](#)

Oct. 29, 2013 – [Second reading memo](#)

**NEXT STEPS**

If the proposed e-bikes pilot project is approved by City Council, staff will proceed with implementation, including on-going community outreach, education, enforcement, and evaluation throughout the year long pilot project. Transportation and OSMP staff will work in partnership to identify the paths on OSMP managed land that will be excluded from the pilot project.

For more information regarding e-bikes, please see the city’s webpage and links from [www.GOBoulder.net](http://www.GOBoulder.net).

**ATTACHMENTS**

Attachment A Ordinance No. 7941

Attachment B Paved paths on OSMP fee property

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ORDINANCE NO. 7941

AN ORDINANCE CREATING A PILOT PROJECT ALLOWING ELECTRIC ASSISTED BICYCLES ON CERTAIN HARD-SURFACED, MULTI-USE PATHS BUT EXCLUDING THOSE ON OPEN SPACE AND MOUNTAIN PARK PROPERTY BY AMENDING DEFINITIONS IN SECTIONS 1-2-1 AND 7-1-1; AMENDING SECTIONS 7-4-16, 7-5-5, AND 7-5-9 TO SPECIFY SAFETY STANDARDS THAT WILL APPLY TO ELECTRIC ASSISTED BICYCLES; ADDING A NEW SECTION 7-5-26 AUTHORIZING ELECTRIC ASSISTED BICYCLES WHERE PERMITTED BY A RULE ADOPTED BY THE CITY MANAGER; ESTABLISHING A SUNSET DATE OF DECEMBER 31, 2014; AND SETTING FORTH RELATED DETAILS.

WHEREAS, THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO, FINDS AND RECITES THE FOLLOWING:

- A. The 2013 Transportation Master Plan (TMP) update builds on a strong foundation of success through policy refinement, using a collaborative approach and addressing the current and future transportation needs of the community while integrating with the city’s broader sustainability planning initiatives.
- B. As part of the TMP update, the Transportation Division is introducing new strategies to increase bicycle and pedestrian mode share. It includes a “Complete Streets Bike and Pedestrian Living Laboratory” that provide test facilities and pilot programs to better understand the community’s transportation choices and identify potential opportunities, barriers, and ultimately strategies to encourage more people to walk and bike.
- C. The purpose of this ordinance is to establish a one-year electric assisted bicycle demonstration Pilot Project (the “Pilot Project”), which would allow and test use of electric assisted bicycles on off-street, hard-surfaced, multi-use path system within the City of Boulder limits.

1 D. The Pilot Project is focused on the urban service area where there is a network of hard-  
2 surfaced, off-street, multi-use paths maintained to a transportation standard.

3 E. The Pilot Project would not include use on facilities that are pedestrian only or intended  
4 to preserve the natural environment. Specifically, electric assisted bicycle use would  
5 continue to be prohibited on sidewalks and on the Open Space and Mountain Park  
6 (OSMP) trail system surrounding Boulder.

7 F. The Pilot Project will evaluate behavior of electric assisted bicycle users to determine  
8 whether these vehicles can co-exist with current uses on these multi-use paths.

9 G. The Pilot Project is part of a Living Laboratory being implemented to introduce new  
10 strategies to increase bicycle mode share and encourage more people to complete trips by  
11 bicycle.

12 H. The city's ordinances do not permit any self-propelled vehicle to be driven on any paths.

13 I. In order to provide assurance that the use of electric assisted bicycles as an alternate  
14 mode of transportation contemplated by this program is safe, prudent, and in the best  
15 interest of all users of the city's hard-surfaced, multi-use path system, city staff will  
16 evaluate the following factors and data on an ongoing basis:

- 17 1. The number of reported traffic collisions involving electric assisted bicycles  
18 occurring on hard-surfaced, multi-use paths that result in severe injury or fatality;
- 19 2. The number of reported close call incidents involving electric assisted bicycles  
20 occurring on hard-surfaced, multi-use paths;
- 21 3. Reported and observed unsafe behavior including speeding and other safety concerns  
22 along the hard-surfaced, multi-use path system by various users including electric  
23 assisted bicyclists, regular bicyclists, pedestrians and other users;  
24  
25

1 4. The time spent by Boulder Police officers conducting enforcement activities along the  
2 hard-surfaced, multi-use path system and the number of warnings and citations issued  
3 involving electric assisted bicycles.

4 J. The greater Boulder community and affected Advisory Boards considered options and  
5 provided input to guide a staff recommendation on the Pilot Project.

6 K. On September 23, 2013, the Transportation Advisory Board held a public hearing to  
7 consider the staff recommendation on the Pilot Project and make a formal  
8 recommendation to City Council.

9 L. This program will sunset and be of no further force and effect after December 31, 2014,  
10 unless extended by affirmative council action.

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

13  
14 Section 1. Section 1-2-1, B.R.C. 1981, is amended to read:

15 **1-2-1 Definitions.**

16 . . .

17 "Motor vehicle" means any self-propelled vehicle other than a moped, electric assisted bicycle or  
18 motorized wheelchair.

19 Section 2. Section 7-1-1, B.R.C. 1981, is amended to read:

20 **7-1-1 Definitions.**

21 . . .

22 "Electric assisted bicycle" means a ~~bicycle-vehicle having two tandem wheels or two parallel~~  
23 wheels and one forward wheel, fully operable pedals, an with a battery powered electric motor  
24 not exceeding with a capacity of no more than fourseven hundred-fifty watts of continuous input  
25 power rating, which assists the person pedaling and which is not capable of propelling the  
~~bicycle and a top motor-powered speed of rider at more than twenty miles per hour on level~~  
~~pavement.~~

1 "Motor vehicle" means any self-propelled vehicle other than a moped, electric assisted bicycle or  
2 motorized wheelchair.

3 Section 3. Section 7-4-16, B.R.C. 1981, is amended to read:

4 **7-4-16 Yield Required Before Entering or Leaving Street.**

- 5 (a) A driver entering a street at any place other than an intersection shall yield the right-of-  
6 way to any pedestrian or bicycle approaching on a sidewalk or path, to any electric  
7 assisted bicycle approaching on a multi-use path where such vehicles are permitted, and  
8 to any vehicle approaching on a roadway of the street.
- 9 (b) A driver leaving a street at any place other than an intersection shall yield the right-of-  
10 way to any pedestrian or bicycle approaching on a sidewalk or path, and to any electric  
11 assisted bicycle approaching in a multi-use path where such vehicles are permitted.

12 Section 4. Section 7-5-5, B.R.C. 1981, is amended to read:

13 **7-5-5 Use of Crosswalk.**

- 14 (a) No person shall immediately approach, enter or traverse a crosswalk which spans a  
15 roadway at a speed greater than eight miles per hour.
- 16 (b) Persons driving bicycles across a roadway upon and along a crosswalk from a sidewalk  
17 or path, and persons driving electric assisted bicycles across a roadway upon and along a  
18 crosswalk from a multi-use path where such vehicles are permitted, shall have all the  
19 duties applicable to pedestrians under the same circumstances.
- 20 (c) Such persons similarly have the rights of a pedestrian, but only if the bicyclist was  
21 entitled to use the sidewalk or path, and the approach, entry and traversal of the  
22 crosswalk are made at a speed no greater than a reasonable crossing speed so that other  
23 drivers may anticipate the necessity to yield when required.

24 Section 5. Section 7-5-9, B.R.C. 1981, is amended to read:

25 **7-5-9 Bicycle Must Yield Right-of-Way and Obey Traffic Control Devices on Sidewalk,  
Crosswalk, or Path.**

- (a) A person driving a bicycle on a sidewalk, a crosswalk, or a path, and any person driving  
an electric assisted bicycle on a multi-use path, shall yield the right of way to any  
pedestrian and shall give an audible signal before overtaking and passing any pedestrian.

1 (b) If any traffic control device is in place alongside of or on a sidewalk or a path, no driver  
2 of a bicycle or pedestrian, and no driver of an electric assisted bicycle on a multi-use path  
3 where such vehicles are permitted, shall fail to obey the requirements of the device.

4 Section 6. Chapter 7-5, “Pedestrian, Bicycle and Animal Traffic,” B.R.C. 1981, is  
5 amended by the addition of a new section to read:

6 **7-5-26 Electric Assisted Bicycles.**

7 No person shall activate the motor of an electric assisted bicycle on any bike or pedestrian path  
8 or on a recreational trail except where permitted by a rule adopted by the city manager in  
9 accordance with Chapter 1-4, “Rulemaking.” B.R.C. 1981. **Such rule adopted by the city**  
10 **manager shall not include paths or trails on open space land as defined in the City Charter**  
11 **Section 170.**

12 Section 7. The city manager shall report to the City Council at least quarterly, and shall  
13 present a program evaluation after the program concludes.

14 Section 8. This ordinance shall be effective until December 31, 2014. The City Council  
15 suspends the prohibition against operating a motorized vehicle on hard-surfaced, multi-use paths  
16 until that time for the limited purpose of implementing the Pilot Project described by this  
17 ordinance, **except that the use of electric assisted bicycles, whether the motor is activated or**  
18 **not, is prohibited on sidewalks and on open space land, as defined in the City Charter**

19 **Section 170.** For all other purposes, the regulations governing electric assisted bicycles remain  
20 in full force and effect.

21 Section 9. This ordinance is necessary to protect the public health, safety, and welfare of  
22 the residents of the city, and covers matters of local concern.

23 Section 10. The City Council deems it appropriate that this ordinance be published by  
24 title only and orders that copies of this ordinance be made available in the office of the city clerk  
25 for public inspection and acquisition.

1 INTRODUCTION, READ ON FIRST READING, AND ORDERED PUBLISHED BY  
2 TITLE ONLY this 1st day of October 2013.

3  
4  
5 Attest: \_\_\_\_\_  
6 Mayor  
7 \_\_\_\_\_  
8 City Clerk

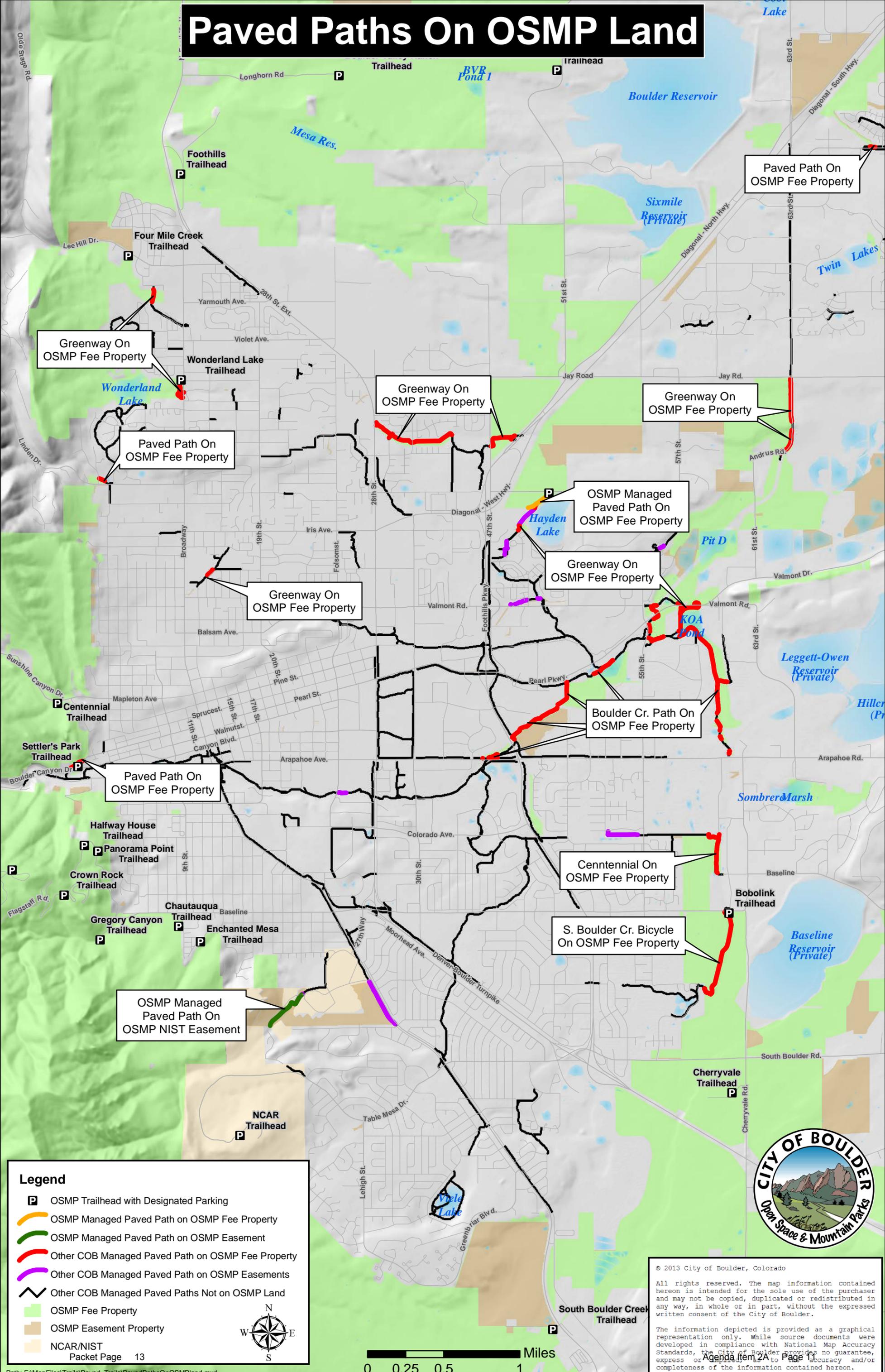
9 READ ON SECOND READING, AMENDED, AND ORDERED PUBLISHED BY  
10 TITLE ONLY this 29th day of October 2013.

11  
12 Attest: \_\_\_\_\_  
13 Mayor  
14 \_\_\_\_\_  
15 City Clerk

16 READ ON THIRD READING, PASSED, ADOPTED, AND ORDERED PUBLISHED  
17 BY TITLE ONLY this 12th day of November, 2013.

18  
19  
20 Attest: \_\_\_\_\_  
21 Mayor  
22 \_\_\_\_\_  
23 City Clerk

# Paved Paths On OSMP Land



Greenway On OSMP Fee Property

Paved Path On OSMP Fee Property

Greenway On OSMP Fee Property

Greenway On OSMP Fee Property

OSMP Managed Paved Path On OSMP Fee Property

Greenway On OSMP Fee Property

Greenway On OSMP Fee Property

Boulder Cr. Path On OSMP Fee Property

Paved Path On OSMP Fee Property

Cennntennial On OSMP Fee Property

S. Boulder Cr. Bicycle On OSMP Fee Property

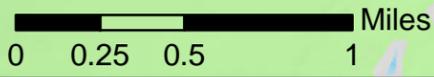
OSMP Managed Paved Path On OSMP NIST Easement

Paved Path On OSMP Fee Property

**Legend**

- OSMP Trailhead with Designated Parking
- OSMP Managed Paved Path on OSMP Fee Property
- OSMP Managed Paved Path on OSMP Easement
- Other COB Managed Paved Path on OSMP Fee Property
- Other COB Managed Paved Path on OSMP Easements
- Other COB Managed Paved Paths Not on OSMP Land
- OSMP Fee Property
- OSMP Easement Property
- NCAR/NIST

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**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: November 12, 2013**

**AGENDA TITLE:**

**Second reading** and consideration of three emergency **ordinances** all to implement and comply with the requirements of Amendment 64 to the Colorado State Constitution and implement Council direction as follows:

1. Ordinance No. 7929 amending Section 6-14, "Medical Marijuana," B.R.C. 1981;
2. Ordinance No. 7930 adding a new Chapter 6-16, "Recreational Marijuana," and a new Section 4-20-67, "Recreational Marijuana Businesses," B.R.C. 1981; and
3. Ordinance No. 7931 amending Section 5-10, "Marijuana Offenses," B.R.C. 1981.

**PRESENTERS:**

Jane S. Brautigam, City Manager  
Tom Carr, City Attorney  
Kathy Haddock, Senior Assistant City Attorney  
Mishawn Cook, Tax and License Manager  
Beverley Bookout, Police Officer  
Dale Goetz, Building Code Compliance Specialist  
Jeff Kessler, Police Sergeant  
Mike Whitney, Assistant City Attorney

**EXECUTIVE SUMMARY:**

This agenda item is intended to address the regulation of recreational marijuana in Boulder under the authority of Amendment 64 to the Colorado State Constitution. These matters were originally set for second reading on September 17, 2013 but due to the flood they were rescheduled and heard on October 22, 2013. On October 22, council addressed a series of issues that members had previously identified as areas of concern and the matters were continued until October 29.

Council provided additional direction on October 29, and the matters were continued to November 12, 2013. Council asked staff to check with the residential neighborhoods of medical marijuana businesses in mixed use developments to advise whether there would be an impact on those neighborhoods if council allowed those businesses to convert to recreational marijuana. Staff has made the requests, but has not yet received responses from the residents or the homeowners associations.

In addition, council directed that staff :

1. Continue processing the 13 pending MMB applications as a priority over preparing for and accepting conversion applications;
2. In order to accommodate the re-arranged priorities, change the date for accepting conversion applications to March 1, 2014;
3. Change the exception from the requirements to separate from schools, daycares and addiction recover facilities for the 13 MMBs with pending applications on October 22, 2013, as well as the MMBs licensed on that date.;
4. Add the separation requirement for cultivation facilities, MIPs and testing facilities of 500 feet from schools, daycares, and addiction recovery facilities to Chapter 6-16. (Council had requested this on 10/22/13 but staff missed it.);
5. Remove the lesser-included penalty for odors from a marijuana cultivation facility to reduce the number of plants for five years;
6. Add language to the advertising limitations in 6-14-8(p) and 6-16-8(p) that prohibits distribution or allowing distribution of promotional materials, as well as selling them and add an exception for uniforms worn in the business while working; and
7. Change the minimum width for aisles in cultivation facilities from six feet to three feet and provide an option for the city manager to accept a layout that accomplishes the same access in a different manner.

The attached ordinances include these changes. Ordinance No. 7929 is redlined to the current version of Chapter 6-14 in the code. Ordinance No. 7930 is redlined to show the changes from the last meeting. Both ordinances also have redlined changes that were made to make the ordinances parallel to each other. The signed version of Ordinance No. 7930 will not include the redlining as Chapter 6-16 is a new law.

**STAFF RECOMMENDATION:**

Staff requests council consideration of this matter and action in the form of the following motion:

Motion to approve three emergency ordinances as follows: Emergency Ordinance No. 7929

amending Section 6-14, "Medical Marijuana," B.R.C. 1981; Emergency Ordinance No. 7930 adding a new Chapter 6-16, "Recreational Marijuana," and a new Section 4-20-67, "Recreational Marijuana Businesses," B.R.C. 1981, and Emergency Ordinance No. 7931 amending Section 5-10, "Marijuana Offenses," B.R.C. 1981, all to implement and comply with the requirements of Amendment 64 to the Colorado State Constitution.

**FIRST AND SECOND READING AGENDA MEMORANDA (10/22/13 and 10/29/13):**

The first reading agenda memo is located in the September 3, 2013 council meeting packet - <https://documents.bouldercolorado.gov/weblink8/0/doc/123525/Electronic.aspx>. The second reading agenda memo for October 22, 2013 is located at <https://documents.bouldercolorado.gov/weblink8/0/doc/123927/Electronic.aspx> and the second reading agenda memo for October 29, 2013 is located at <https://documents.bouldercolorado.gov/weblink8/0/doc/123958/Electronic.aspx>. Attached is the response to questions regarding medical and recreational marijuana MIPs.

**ISSUES FROM 10/29/13**

The following chart shows the original proposed schedule, Council revisions of 10/22/13 and council revisions of 10/29/13:

Staff Proposal 3/5/13	Revised Schedule 9/3/13	Revised Schedule by Council 10/22/13	Revised Schedule by Council 10/29/13
Stop accepting new MMB Applications	March 1, 2013	November 1, 2013	November 1, 2013
Stop Processing pending apps for conversions	October 1, 2013	November 1, 2013	Staff shall continue processing 13 pending apps
Accept Conversion apps*	June 1, 2014	January 1, 2014	March 1, 2014
Accept Apps for New MMB and RMB	September 1, 2014	June 1, 2014	June 1, 2014

\*Council extended exception to 1,000' distance (for retail) and 500' (for cultivation, MIPs and testing facilities) from schools, daycares and additional recovery facilities and 500' from other MBs for cultivation, MIPs and testing facilities to the 13 MMBs with pending applications on October 22, 2013.

Questions were asked about the city not having MIPs in Chapter 6-14, but only in Chapter 6-16. The concern is based on an incorrect assumption rather than the language in the ordinances. Speakers assumed that as a result of MIPs being addressed only in Chapter 6-16, the city was not allowing medical MIPs, but only recreational MIPs. However, that is not how the ordinances are written. Ordinance No. 7929 defines a medical MIP as a MIP licensed under Chapter 6-16. The MIP regulated in Chapter 6-16 is not separated between medical and recreational. The city requires the same set-up, zoning, application and industrial hygienist requirements for a MIP regardless of whether it is creating medical or recreational marijuana products. The MIPs must also comply with state law. Nothing in the city's law conflicts with the state law requirements

for either a medical or a recreational marijuana MIP. Another way to think about it is that Boulder is allowing the equivalent of dual licensing for MIPs without the business having to pay two application fees.

The only other questions staff has received are businesses that want the city to change the delineation between MMBs that qualify for exceptions to the new requirements for medical marijuana businesses to include (a) an expansion of the existing footprint of the existing business, (b) applications submitted after the October 22, 2013 date set by council, and (c) applicants who currently have licenses but their existing business is being closed and they have to relocate but have not submitted an application for the new location. Whether council wants to approve any of these changes is a policy decision. Adding more on the “front end” for staff will delay the time that staff will be ready to accept conversion applications.

**ATTACHMENTS**

- Attachment A: Ordinance No. 7929
- Attachment B: Ordinance No. 7930
- Attachment C: Ordinance No. 7931

ORDINANCE NO. 7929

AN EMERGENCY ORDINANCE AMENDING CHAPTER 6-14, "MEDICAL MARIJUANA," B.R.C. 1981, TO IMPLEMENT AND COMPLY WITH THE REQUIREMENTS OF AMENDMENT 64 TO THE COLORADO STATE CONSTITUTION, AND SETTING FORTH RELATED DETAILS.

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

Section 1. Subsection 6-14-1(a)(2), B.R.C. 1981, is amended to read:

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

(a) Legislative Intent. The city council intends to regulate the use, acquisition, cultivation, production and distribution of medical marijuana in a manner that is consistent with Article XVIII, Section 14 of the Colorado Constitution (the "Medical Marijuana Amendment-");

...

(2) Use, distribution, cultivation, production, possession and transportation of medical marijuana remains illegal under federal law, and marijuana remains classified as a "controlled substance" by ~~both Colorado and~~ federal law.

Section 2. Section 6-14-2, B.R.C. 1981, is amended to add the following definitions:

**6-14-2 Definitions.**

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

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

...

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

...

Marijuana for this Chapter 6-14 means

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

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

Marijuana establishment shall have the same meaning as marijuana establishment in Chapter 6-16 of this code.

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

...

Medical marijuana-infused product means a marijuana-infused product as defined in Chapter 6-16 of this code. ~~product infused with medical marijuana that is processed for use or consumption, including, without limitation, edible products, concentrates, ointments and tinctures.~~

Medical marijuana-infused product manufacturer means a licensed marijuana-infused product manufacturer as defined in Chapter 6-16 of this code ~~medical marijuana businesses that produces medical marijuana-infused products.~~

...

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

...

Place open to the general public means any property owned, leased or used by a public entity, and any place on private property retail malls, business open to the public, common areas of buildings, private clubs, and vehicles, those portions of any private property upon which the public has an express or implied license to enter or remain, and any place visible from such places. Place open to the general public shall not include any fenced area of a private residence regardless of whether it can be seen from a place open to the public.

...

Section 3. Section 6-14-5, B.R.C. 1981, is amended to read:

**6-14-5 Application.**

(a) Application Requirements. An application for a medical marijuana business license shall be made to the City on forms provided by the city manager for that purpose. The applicant shall use the application to demonstrate its compliance with this chapter and any other applicable law, rule or regulation. In addition to the information required by chapter 4-1, "General Licensing Provisions," B.R.C. 1981, the application shall include the following information:

...

(3) A statement of whether or not any of the named owners, members, business managers, financiers, primary caregivers or persons named on the application have been:

(A) Denied an application for a medical marijuana business license pursuant to this chapter; for a recreational marijuana license pursuant to Chapter 6-16 of this code, or any similar state or local licensing law, rule or regulation, or had such a license suspended or revoked.

...

(6) An operating plan for the proposed medical marijuana business, including the following information:

...

(D) For cultivation facilities and medical marijuana infused product manufacturers, a plan that specifies the methods to be used to prevent the growth of harmful mold and compliance with limitations on discharge into the wastewater system of the City as set forth in Chapter 11-3, "Industrial and Prohibited Discharges," B.R.C. 1981.

(E) For a medical marijuana infused product manufacturer, a plan that specifies all means to be used for extraction, heating, washing or otherwise changing the form of the medical marijuana plant, and verification of compliance with all applicable laws for ventilation and safety measures for each process. The City shall require the medical marijuana business to obtain a report from an industrial hygienist to verify that the plan submitted, and the improvements to be constructed, adequately protect the business and adjacent properties and persons and comply with all applicable laws.

...

(13) A description of all toxic, flammable or other materials regulated by a federal, state or local government that would have with authority over the business if it was not a marijuana business, that will be used or kept at the medical marijuana business, the location of such materials and how such materials will be stored.

(14) A statement of the amount of the projected daily average and peak electric load anticipated to be used by the business and certification from the landlord and utility provider that the premises are equipped to provide the required electric load, or necessary upgrades will be performed prior to final inspection of the premises.

(15) No applications for new medical marijuana businesses shall be accepted between November 1, 2013 and May 31, 2014.

Section 4. Add a new Subsection (14) to Section 6-14-6(a) to read:

**6-14-6 Persons Prohibited as Licensees and Business Managers**

(a) It shall be unlawful for any of the following persons to have an ownership or a financial interest in a medical marijuana business, and no license provided by this chapter shall be issued to or held by, and no medical marijuana business shall be managed by:

...

(14) Any person applying for a license to operate a medical marijuana center who has been licensed to operate another medical marijuana center in the city pursuant to this chapter.

Section 5. Section 6-14-7(e) and (f), B.R.C. 1981, is amended to read:

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

...

(c) No Medical Marijuana Business in Building with Residences or Residential Zone Districts. It shall be unlawful to operate a medical marijuana business in a building which contains a residence, or within a dwelling unit within any zone district, or within a residential zone district or within a mixed-use development that includes a residence, as described in Table 5-1 of section 9-5-2, "Zoning Districts," B.R.C., 1981. This restriction shall not apply to a medical marijuana wellness center that had submitted an application or held a license from the City on October 22, 2013.

...

(f) Separation ~~F~~from Schools, Day Care Centers, ~~Addiction Recovery~~ Rehabilitation Facilities, or Other Medical Marijuana Uses. ~~No medical marijuana business license shall be issued for the following locations:~~

(1) No medical marijuana wellness center license shall be issued for a location within 1,000 feet of any elementary, vocational, or secondary school or a public or private college, junior college, or university, or a state licensed day care center, or an addiction recovery facility. This restriction shall not apply to a medical marijuana wellness center that had submitted an application or held a license from the City on October 22, 2013. ~~Within five hundred feet of~~

~~any elementary, junior high, middle or high school or state licensed day care center. Distances shall be measured by the City on official maps as the radius from the closest points on the perimeter of the applicant's property to the closest point of the property of the school or day care center. This restriction shall not apply to a medical marijuana business that is licensed by the City on November 1, 2012.~~

(2) No license for a medical marijuana cultivation facility shall be issued for a locations within 500 feet of the real property comprising a public or private elementary, vocational, or secondary school or a public or private college, junior college, or university, or state licensed day care, or addiction recovery facility. This restriction shall not apply to a medical marijuana cultivation facility that had submitted an application or held a license by the City on October 22, 2013.

~~(3)(2) No medical marijuana business license shall be issued for a location Wwithin five hundred500 feet of three other marijuana businesses, -except that tThis limitation shall not apply a to medical marijuana cultivation facility in Industrial-industrial zones that had submitted an application or been licensed by the City on October 22, 2013.~~

(A) Distances shall be measured by the City on official maps as the radius from the closest points on the perimeter of the applicant's property to the closest point of the property of any other medical marijuana business.

(B) To determine the proximity to other medical marijuana businesses and the priority of applications, businesses shall have priority in the following order:

- (i) Businesses that are open and operating;
- (ii) Businesses whose applications have been approved; ~~and~~
- (iii) Applications for medical marijuana business licenses that have been submitted by the applicant and declared complete by the City; ~~and-~~
- (iv) No other applications shall be considered "businesses" for this determination.

Section 6. Section 6-14-8(b) and (p) are amended to read:

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

...

(b) Restriction on Access to Restricted Area. No person, other than a patient, licensee, employee, or a contractor shall be in the restricted area. No patient shall be allowed entry into the restricted area without showing a valid picture ID and evidence that the person is a patient. Age Limitations. No person under eighteen years of age shall be in the restricted area, unless the person is accompanied by a parent or guardian.

...

(i) Renewable Energy Usage Required. A medical marijuana ~~business~~cultivation facility shall directly offset 100% of its electricity consumption through the purchase of renewable energy in the form of Windsource, a verified subscription in a Community Solar Garden or renewable energy generated onsite, or an equivalent that is subject to approval by the ~~City~~city. For medical marijuana businesses licensed by the city on October 22, 2013, this requirement shall apply at the time of renewal of the medical marijuana business license following October 22, 2013.

...

(m) Delivery ~~Between~~between Medical Marijuana Businesses. It shall be unlawful for any person to transport medical marijuana, except as specifically allowed by applicable law, unless the medical marijuana being transported meets the following requirements:

...

(4) Unless otherwise specifically allowed by applicable law, medical marijuana may be transported only:

(A) From a medical marijuana cultivation facility to a medical marijuana ~~center~~business; and

(B) Which medical marijuana business is owned by the same person as owns the cultivation facility; or

(C) Between one medical marijuana center to another medical marijuana center ~~or between a medical marijuana-infused product manufacturer and a medical marijuana center~~, with proper bill of sale completed before transport.

...

(p) Advertisement. A medical marijuana business may not advertise in a manner that is inconsistent with the medicinal use of medical marijuana. A medical marijuana business may not advertise in a manner that is misleading, deceptive, false or is designed to appeal to minors. Advertisement that promotes medical marijuana for recreational or any use other than for medicinal purposes shall be a violation of this code. The following conditions shall apply:

(1) Any person licensed as a medical marijuana center ~~or a medical marijuana-infused products manufacturer~~ shall include in any advertisement for medical marijuana or any medical marijuana-infused product the following language: "For registered Colorado medical marijuana patients only." Provided, however, this language shall not be required to be displayed upon any sign identifying a medical marijuana center, as permitted by subparagraph (2)(a) below.

(2) Except as otherwise provided in this paragraph, 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 in plain view of or in a place open to the general public, including advertising utilizing any of the following media: any billboard or other outdoor general advertising device as defined by the zoning code; any sign mounted on a vehicle; any 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 paragraph shall not apply to:

- a. Any sign located on the same zone lot as a medical marijuana center which exists solely for the purpose of identifying the location of the medical marijuana center and which otherwise complies with this code and any other applicable city laws and regulations;
- b. Any advertisement contained within a newspaper, magazine or other periodical of general circulation within the City or on the internet; or
- c. Advertising which is purely incidental to sponsorship of a charitable event by a medical marijuana center or a medical marijuana-infused products manufacturer.

(3) It is an affirmative defense if a medical marijuana business employee provided another individual, upon request, a business card for the purpose of providing that person's name and business affiliation, including, without restriction, title, mailing address, email address and telephone number.

(4) No medical marijuana business shall distribute or allow the distribution of any marijuana without charge within a marijuana business or any place open to the public for the purpose of promotion or advertising.

(5) No medical marijuana business shall distribute or allow the distribution of any coupon or similar writing, electronically or on paper, which purports to allow the bearer to exchange the same for any marijuana product either free or at a discount.

(6) No medical marijuana business shall sell distribute or provide, or allow the sale, distribution or provision of, products marked with its name or logo, other than packaging in which medical marijuana is sold or on medical marijuana products. This prohibition shall not prevent employees of the business from wearing uniforms with the name or logo while working for the business on the business premises.

Section-7. Section 6-14-9(g) is amended to read:

**6-14-9 Right of Entry – Records to be Maintained.**

(g) Reporting of Energy Use and Renewable Energy Credit (REC) Purchases. The records to be maintained by each medical marijuana business ~~that cultivates medical marijuana~~ shall include without limitation records showing on a monthly basis the use and source of energy and the number of certified Renewable Energy Credits (RECs) purchased, or the subscription level for another renewable energy acquisition program approved by the city manager. A statement of the projected daily average peak electric load anticipated to be used by the business and certification from the building owner or landlord and utility provider that the premises are equipped to provide the required electric load, or necessary upgrades will be performed. Such records shall include all statements, reports or receipts to verify the items included in the report of the business. By application for a medical marijuana business license from the city, the medical marijuana business grants permission to providers of the energy or point of origin of the RECs or other renewable energy acquisition program to disclose the records of the business to the city. For medical marijuana business that cultivate medical marijuana the report shall include the number of certified Renewable Energy Credits (RECs) purchased, or the subscription level for another renewable energy acquisition program approved by the city manager.

Section 8. Section 6-14-13(a)(1) is amended and a new Subsection (33) is added to read:

**6-14-13 Prohibited Acts.**

(a) Prohibited Acts. It shall be unlawful for any person to:

(1) Cultivate, distribute, possess or produce, smoke, use or ingest marijuana for medicinal use in plain view of, or in a place open to the general public.

...

(33) Label or distribute a marijuana-infused product that is not labeled as required by this code or other applicable law.

(34) Distribute or deliver marijuana from a medical marijuana cultivation facility to any location other than a medical marijuana wellness center.

Section 9. This ordinance is necessary to protect the public health, safety, and welfare of the residents of the city, and covers matters of local concern.

Section 10. The City Council finds that preservation of the public, peace, health, and property justify the adoption of this ordinance as an emergency measure. The nature of the emergency is described, in part, by the findings of fact set forth in this ordinance. The City

Council further finds that changes were adopted by the council at second reading and this is the last meeting before this council's term expires on November 19, 2013 when this ordinance must be finally adopted. Therefore, the City Council orders that this ordinance shall be effective upon passage.

Section 11. The City Council deems it appropriate that this ordinance be published by title only and orders that copies of this ordinance be made available in the office of the city clerk for public inspection and acquisition.

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY  
TITLE ONLY this 3<sup>rd</sup> day of September 2013.

Attest:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

READ ON SECOND READING, PASSED, ADOPTED AS AN EMERGENCY  
MEASURE BY TWO-THIRDS OF COUNCILMEMBERS PRESENT, AND ORDERED  
PUBLISHED BY TITLE ONLY this 12th day of November, 2013.

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

ORDINANCE NO. 7930

AN EMERGENCY ORDINANCE ADDING A NEW CHAPTER 6-16, "RECREATIONAL MARIJUANA," B.R.C. 1981 AND ADDING A NEW SECTION 4-20-67, "RECREATIONAL MARIJUANA BUSINESSES," B.R.C. 1981 TO IMPLEMENT AND COMPLY WITH THE REQUIREMENTS OF AMENDMENT 64 TO THE COLORADO STATE CONSTITUTION, AND SETTING FORTH RELATED DETAILS.

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

Section 1. A new chapter 6-16, B.R.C. 1981, is added to read:

**Title 6: Health and Safety and Sanitation**

**Chapter 6-16: Recreational Marijuana**

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

(a) Legislative Intent and Findings. The City Council intends to regulate the use, possession, cultivation, production and distribution of marijuana in a manner that is consistent with Article XVIII, Section 16 of the Colorado Constitution (the "Recreational Marijuana Amendment" also known as Amendment 64) and finds that the provisions of this Chapter 6-16 are directly and demonstrably related to the operation of marijuana establishments in a manner to minimize negative impacts on the community.

- (1) The city adopts this law to apply to all recreational marijuana operations in the city under the Recreational Marijuana Amendment, or any recreational marijuana business permitted under the state law.
- (2) Marijuana use, distribution, cultivation and production can have an impact on health, safety, and community resources and the code is intended to permit marijuana cultivation, distribution, production and testing where it will have a minimal impact, and potential negative impacts are minimized.
- (3) Use, distribution, cultivation, production, possession and transportation of marijuana remains illegal under federal law, and marijuana remains classified as a "Level 1 Controlled Substance" by federal law.
- (4) The General Assembly has adopted enabling legislation that provides for local licensing, however the state law is not intended to, and does not, address the local impacts of marijuana operations, making it appropriate for local regulation of marijuana operations.

- (5) Nothing in this chapter is intended to promote or condone the production, distribution or possession of marijuana in violation of any applicable law.
  - (6) This chapter is to be construed to protect the public over marijuana business interests. Operation of a recreational marijuana business is a revocable privilege and not a right in the city. There is no property right for an individual or business to have marijuana in the city.
  - (7) Marijuana businesses are a heavily regulated industry in the city, and the city has a zero tolerance policy for violations of this chapter.
  - (8) This chapter is not intended to replace the Medical Marijuana law in Chapter 6-14 of this code, and any person may apply for and operate a medical marijuana business pursuant to Chapter 6-14 without complying with this chapter.
  - (9) This chapter is intended to specify the time, place, and manner restrictions for operating a recreational marijuana business in the city as specified in the Recreational Marijuana Amendment.
  - (10) The operation of a marijuana business without a license from the city as provided in this chapter is prohibited within the city.
  - (11) The experience of the city in processing and enforcing medical marijuana business licensing evidences that the provisions herein are capable and worthy of being carried out in practice by a reasonably prudent businessperson.
  - (12) The Colorado Administrative Procedures Act, Article 4 of Title 24 of the Colorado Revised Statutes (the “APA”), does not apply to local governments and the state has not been able to resource the process thereof in a timely manner. The procedures herein for issuance and enforcement of a recreational marijuana business license are consistent with the requirements of the APA and have been determined by the Boulder District Court to provide the level of due process required by the United States and Colorado Constitutions.
  - (13) A licensee is not acting in his or her capacity as an owner, employee, or agent of a licensed marijuana establishment if the licensee is operating in violation of this chapter or any other applicable law.
  - (14) The City Council has determined to allow marijuana establishments in the city on the condition that the establishments are operated in compliance with this chapter rather than banning marijuana establishments in the city as permitted by the Recreational Marijuana Amendment.
- (b) Purpose. The purpose of this chapter is to protect the public health, safety and welfare of the residents, businesses, and property in the city by prescribing the manner in which recreational marijuana businesses can be conducted in the city. Further, the purpose of this chapter is to:

- (1) Provide for a means of cultivation, production, and distribution of marijuana to persons permitted to obtain, possess and use marijuana for recreational purposes under the Recreational Marijuana Amendment;
- (2) Protect public health and safety through reasonable limitations on business operations as they relate to noise, air and water quality, food safety, neighborhood and public safety, security for the business and its personnel, and other health and safety concerns;
- (3) Promote lively street life and high quality neighborhoods by limiting the concentration of any one type of business in specific areas;
- (4) Impose fees for licensing recreational marijuana businesses in an amount sufficient for the city to recover its costs of the licensing program;
- (5) Adopt a mechanism for monitoring compliance with the provisions of this chapter;
- (6) Create regulations that address the particular needs of the residents and businesses of the city and coordinate with laws that may be enacted by the state regarding recreational marijuana;
- (7) Facilitate the implementation of the Recreational Marijuana Amendment without going beyond the authority granted by it;
- (8) Support Boulder's Sustainability and Climate Action Plan goals by requiring renewable sources for energy use to grow recreational marijuana;
- (9) Issue recreational marijuana business licenses only to individuals and entities that have demonstrated an intent and ability to comply with this chapter without monitoring by city officials;
- (10) Protect public safety and residential areas by limiting the areas of the city where more than six marijuana plants may be grown;
- (11) Exclude from the definition of a *recreational marijuana business* the private possession, production and recreational use of marijuana by an individual or the private possession, production, distribution and recreational use of marijuana by an individual, in the person's residence, to the extent permitted by Article XVIII, Section 16 of the Colorado Constitution; and
- (12) Designate the city manager as the recreational marijuana licensing authority responsible for licensing recreational marijuana for the City of Boulder.

(c) Relationship to State Law. The provisions in this chapter that are different from the applicable state law are consistent with the city's responsibility to protect the public health, safety and welfare as authorized by applicable law, and by the home rule authority granted to the city

by Article XX of the Colorado Constitution and the Charter of the City. The city intends that both state law and this chapter apply within the city. Where this chapter conflicts with the state law, this chapter shall apply.

(d) Adoption of this Chapter 6-16 is not intended to waive or otherwise impair any portion of the local option available under the Recreational Marijuana Amendment.

### **6-16-2 Definitions.**

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

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

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

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

*Co-located marijuana business* means a medical marijuana wellness center or cultivation facility that held a license from the city on October 22, 2013, that is permitted by the owner of the building and all applicable laws, to divide the licensed medical marijuana business to allow for both a medical and a recreational marijuana wellness center or cultivation facility as separate business premises with separate licenses from the city within the same footprint and owned by the same person(s) as the medical marijuana wellness center or cultivation facility.

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

*Cultivation facility* means a licensed recreational marijuana business that produces and harvests marijuana plants for distribution by a licensed recreational marijuana center or a licensed recreational marijuana-infused product manufacturer. Except as included in this definition, a cultivation facility may not operate any production on its premises.

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

*Fermented malt beverage* has the same meaning as its meaning under the Colorado Beer Code, C.R.S. 12-46-103.

*Financier* means any person who lends money or otherwise provides assets to any person applying for a license or who has been issued a license under this chapter. Financier shall not include a bank, savings and loan association, credit union or industrial bank supervised and regulated by an agency of the state or federal government.

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

*Mall* means the downtown Boulder business improvement district boundaries set forth in Appendix 8-B of Title 8 of this code, including the downtown pedestrian mall established by Ordinance No. 422 adopted February 18, 1975.

*Malt, vinous and spirituous liquor* has the same meaning as its meaning under the Colorado Liquor Code, C.R.S. 12-47-108.

*Marijuana* for this Chapter 6-16 means:

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

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

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

*Marijuana establishment* means a recreational marijuana business that has a license from the state and the city to operate.

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

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

*Minor* means a person under 21 years of age.

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

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

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

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

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

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

*Recreational marijuana* means any marijuana intended for recreational use which meets all requirements for recreational marijuana contained in Chapter 6-16 of this code, the Recreational Marijuana Amendment, and any other applicable law.

*Recreational marijuana amendment* means Article XVIII, Section 16 of the Colorado Constitution.

*Recreational marijuana business* means (a) any person that cultivates, produces, distributes, possesses, transports or makes available more than six marijuana plants or one ounce of marijuana, or (b) any person that sells any amount of marijuana or (c) any person who possesses marijuana openly or publicly. The term *recreational marijuana business* shall not include the private cultivation, possession, production or use within a

person's residence of no more than (a) six plants in an enclosed, locked space, or (b) one ounce of marijuana, or (c) the marijuana produced by no more than six plants on the premises where the plants were grown if the plants were grown in an enclosed locked space.

*Recreational marijuana center* means a licensed recreational marijuana business that distributes marijuana to any person or to recreational marijuana-infused product manufacturers or to another recreational marijuana center.

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

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

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

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

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

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

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

### **6-16-3 License Required.**

(a) License Required. It shall be unlawful for any person to operate a recreational marijuana business without obtaining a license to operate pursuant to the requirements of this chapter and holding a license in good standing from the state.

(b) Additional Licenses and Permits May be Required. The license requirement set forth in this chapter shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other federal, state or local law, including, by way of example, a retail sales and use tax license, a retail food establishment license or any applicable zoning or building permit.

(c) License Does Not Provide any Exception, Defense or Immunity from Other Laws. The issuance of any license pursuant to this chapter does not create an exception, defense or immunity to any person in regard to any potential criminal liability the person may have for the production, distribution or possession of marijuana.

(d) Separate License Required for Each Location. A separate license shall be required for each premise from which a recreational marijuana business is operated. No two or more different businesses, including recreational marijuana businesses, may be treated as one premise. Unless higher performance is required by applicable law, there must be a minimum of a one-hour fire separation wall between a recreational marijuana business and any adjacent business.

(e) License Non-Transferable. A recreational marijuana business license is not transferable or assignable, including without limitation, not transferable or assignable to a different premise, to a different type of business (including another marijuana business), or to a different owner or licensee. A recreational marijuana business license is valid only for the owner named thereon, the type of business disclosed on the application for the license, and the location for which the license is issued. The licensees of a recreational marijuana business license are only those persons disclosed in the application or subsequently disclosed to the city in accordance with this chapter.

(f) Conversion of Licenses to Different Marijuana Business. A license for a marijuana establishment may not be converted to a license for a medical marijuana business. A license for a medical marijuana business that was licensed, open and operating on October 22, 2013, or that had submitted a complete application for a medical marijuana business on October 22, 2013, may be converted to the same type of marijuana establishment by complying with the requirements of this chapter for a renewal of a marijuana license and paying the application fee specified in Section 4-20-67 of this code. The license for the medical marijuana business must be surrendered to the city before the recreational marijuana business license will be issued. The term of the license shall be the same as the existing medical marijuana business license.

(g) Conversion to a Co-located Marijuana Business. A licensee of a medical marijuana wellness center or cultivation facility may apply for a co-located marijuana business license by submitting an application for a co-located marijuana business on forms approved by the city. At a minimum, the application form shall include a modification of the existing medical marijuana business to conform to the new footprint of the medical marijuana portion of the co-located marijuana business and all components of the application described in Section 6-16-5 of this

code determined applicable by the city manager for the recreational marijuana portion of the co-located marijuana business, and paying the modification of premises fee and operating fee specified in Section 4-20-67 of this code. The license for the medical marijuana business must be surrendered to the city before the co-located marijuana business license will be issued. The term of the co-located marijuana business license shall be the same as the existing medical marijuana business license. For purposes of separation from other marijuana businesses in Paragraph 6-16-7(e)(2) of this code, the co-located medical and recreational marijuana business shall be considered one marijuana business.

(h) Until such time as the State of Colorado provides the City of Boulder with access to criminal history information for the purpose of issuing marijuana business licenses, no conversion under subsections (f) or co-location under subsection (g) above shall be approved if there is any change in the identity of the individuals required to be listed on the application as reported to the city by October 22, 2013 pursuant to this chapter.

#### **6-16-4 General Provisions.**

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

(b) Defense to Criminal Prosecutions. Compliance with the requirements of this chapter shall not provide an exception, immunity or defense to criminal prosecution under any applicable law, except in the Boulder Municipal Court for a violation of this chapter as specifically provided herein.

(c) Insurance Required. The insurance specified in Section 4-1-8, "Insurance Required," B.R.C. 1981, is required for a license under this chapter.

(d) Costs of Inspection and Clean-Up. In the event the city incurs costs in the inspection, clean-up, surrender of plants, or any other requirements to remove marijuana of any recreational marijuana business, or any person cultivating, producing, distributing or possessing marijuana, the business and responsible person shall reimburse the city all actual costs incurred by the city for such inspection or clean-up.

(e) Decisions on Application or Revocation Final. The decision of the city manager on an application for a recreational marijuana business license or revocation thereof pursuant to this chapter shall be the final decision of the city subject only to judicial review pursuant to Colorado Rule of Civil Procedure 106(a)(4), unless the notice of the decision includes an opportunity for a hearing as provided in Section 1-3-3 of this code. No defense or objection may be presented for

judicial review unless it is first presented to the city manager prior to the effective date of the decision.

(f) Forfeiture of License. In the event that a recreational marijuana business does not commence operations within 30 days of issuance of a license from the city, the license shall be deemed forfeited, and the business may not commence operations.

(g) Landlord Duty. It shall be unlawful for the owner of a building to lease space or allow the use of any portion of the building by a recreational marijuana business unless the tenant has a valid recreational marijuana business license or has applied for and not been denied a recreational marijuana business license or no marijuana is located on the premises until a license has been issued by the city. In the event that the city has an articulable reason to believe that a recreational marijuana business is being operated in a building, it shall be unlawful for the owner of the building to refuse to allow the city access to the portion of the building in which the suspected recreational marijuana business is located to determine whether any marijuana is on the premises.

(h) Time Periods for Accepting Applications for Recreational Marijuana Businesses.

(1) No applications for conversion of a medical marijuana business to a recreational marijuana business shall be accepted before January 2, 2014. As a condition of the city accepting an application for conversion of a medical marijuana or a co-located marijuana business, the applicant and all licensees shall be the same as those identified for the medical marijuana license and affirm that there will be no changes in licensees for the recreational marijuana business. If a license is issued, and the business makes any changes in licensees prior to such time as the State of Colorado makes criminal history information available for the purpose of processing recreational marijuana business licenses, the license may be revoked.

(2) No applications for a new recreational marijuana business (that is not a conversion from a medical marijuana business pursuant to Section 6-16-3(g) or a co-located marijuana business pursuant to Section 6-16-3(h)) shall be accepted before June 1, 2014.

### **6-16-5 Application.**

(a) Application Requirements. An application for a recreational marijuana business license shall be made to the city on forms provided by the city manager for that purpose. The applicant shall use the application to demonstrate its compliance with this chapter and any other applicable law, rule or regulation. In addition to the information required by Chapter 4-1, "General Licensing Provisions," B.R.C. 1981, the application shall include the following information:

(1) Name and address of the owner or owners of the recreational marijuana business in whose name the license is proposed to be issued.

- (A) If an owner is a corporation, the name and address of any officer or director of the corporation and of any person holding issued and outstanding capital stock of the corporation.
  - (B) If an owner is a partnership, association or company, the name and address of any person holding an interest therein and the managing members. If a managing member is an entity rather than an individual, the same disclosure shall be required for each entity with an ownership interest until a managing member that is a natural person is identified.
  - (C) If an owner is not a natural person, the organizational documents for all entities identified in the application, identification of the natural person that is authorized to speak for the entity and contact information for that person.
- (2) Name and address of:
- (A) Any business managers of the recreational marijuana business, if the business manager is proposed to be someone other than the owner;
  - (B) All financiers of the recreational marijuana business; and
  - © All agents of the recreational marijuana business who either (I) act with managerial authority, (II) provide advice to the recreational marijuana business for compensation, or (III) receive periodic compensation totaling \$1,000 or more in a single year for services related to the recreational marijuana business. It shall be an affirmative defense that the undisclosed person was an attorney, accountant, bookkeeper, mail delivery person, or other contractor performing services for the business that are unrelated to the cultivation, production, or distribution of recreational marijuana.
- (3) A statement of whether or not any of the named owners, members, business managers, financiers, or persons named on the application have been:
- (A) Denied an application for a marijuana business license pursuant to this chapter, Chapter 6-14 of this code, or any similar state or local licensing law, rule or regulation, or had such a license suspended or revoked.
  - (B) Denied an application for a liquor license pursuant to Title 12, Article 47 or Article 46, C.R.S., or any similar state or local licensing law, or had such a license suspended or revoked.

- (C) Violated any law, other than a traffic offense, or completed any portion of a sentence due to a violation of any law.
  - (D) Convicted of driving or operating other machinery under the influence of alcohol, drugs or medication, driving while impaired or driving with excessive alcohol content in violation of § 42-4-1301, C.R.S., or any comparable law, or a misdemeanor related to abuse of alcohol or a controlled substance.
- (4) Proof of ownership or legal possession of the restricted area for a recreational marijuana business for the term of the proposed license. If the recreational marijuana business is not the owner of the premises of the business, the applicant shall provide written authorization to the city from the owner to enter the property for inspection of the premises on a form approved by the city.
- (5) Proof of insurance as provided in Section 4-1-8, "Insurance Required," B.R.C. 1981.
- (6) An operating plan for the proposed recreational marijuana business, including the following information:
- (A) A description of the products and services to be provided by the recreational marijuana business.
  - (B) A dimensioned floor plan, clearly labeled, showing:
    - (i) The layout of the structure and the floor plan in which the recreational marijuana business is to be located;
    - (ii) The principal uses of the floor area depicted on the floor plan, including but not limited to the areas where underage persons will be permitted, storage areas, retail areas, and restricted areas where recreational marijuana will be located;
    - (iii) Areas where any services other than the distribution of recreational marijuana are proposed to occur in the premises; and
    - (iv) The separation of the areas that are open to persons who are underage from those areas open to persons qualified to use marijuana.
  - (C) A neighborhood responsibility plan that demonstrates how the business will fulfill its responsibilities to the neighborhood, including neighborhood outreach, methods for future communication and dispute resolution.

- (D) For cultivation facilities and marijuana-infused product manufacturers, a plan that specifies the methods to be used to prevent the growth of harmful mold and compliance with limitations on discharge into the wastewater system of the city as set forth in Chapter 11-3, "Industrial and Prohibited Discharges," B.R.C. 1981.
  - (E) For a marijuana-infused product manufacturer or a marijuana testing facility, a plan that specifies all means to be used for extraction, heating, washing, or otherwise changing the form of the marijuana plant, or testing any marijuana, and verification of compliance with all applicable laws for ventilation and safety measures for each process. The city shall require the manufacturer or testing facility to obtain a report from an industrial hygienist to verify that the plan submitted, and the improvements to be constructed, adequately protect the business and adjacent properties and persons, and comply with all applicable laws.
  - (F) The maximum amount of marijuana or marijuana-infused products that may be on the business premises.
- (7) A security plan indicating how the applicant will comply with the requirements of this chapter and any other applicable law, rule or regulation. The security plan includes specialized details of security arrangements and will be protected from disclosure as provided under the Colorado Open Records Act, § 24-72-203(2)(a)(VIII), C.R.S. If the city finds that such documents are subject to inspection, it will attempt to provide at least twenty-four-hour notice to the applicant prior to such disclosure.
  - (8) A lighting plan showing the lighting outside of the marijuana business for security purposes and compliance with applicable city requirements.
  - (9) A zoning confirmation form from the city, to ascertain within a radius of one-quarter mile from the boundaries of the property upon which the recreational marijuana business is located, the proximity of the property to any school or other facility identified in this chapter, or state licensed child care center, to any other marijuana business or to any residential zone district or a mixed-use development containing one or more residences.
  - (10) Fingerprints and personal histories as may be specified on forms provided by the city manager. This requirement shall apply to all owners, business managers, and financiers employed by or under contract to provide services to the recreational marijuana business, including all individuals who have an interest as described herein of any portion of the recreational marijuana business, directly or as an agent, or a member, partner or officer of a corporation, partnership, association or company, and the reports from the Colorado and Federal Bureaus of Investigation for each person.

- (11) A plan for disposal of any recreational marijuana or marijuana-infused product that is not sold in a manner that protects any portion thereof from being possessed or ingested by any person or animal.
  - (12) A plan for ventilation of the marijuana business that describes the ventilation systems that will be used to prevent any odor of marijuana off the premises of the business. For cultivation facilities, such plan shall also include all ventilation systems used to control the environment for the plants and describe how such systems operate with the systems preventing any odor leaving the premises. For marijuana infused product manufacturers and marijuana testing facilities, such plan shall also include all ventilation systems used to mitigate noxious gases or other fumes used or created as part of the production process.
  - (13) A description of all toxic, flammable or other materials regulated by a federal, state or local government that would have authority over the business if it was not a marijuana business, that will be used, kept, or created at the marijuana business, the location of such materials and how such materials will be stored.
  - (14) A description of the process(es) used to extract or distill marijuana from its source and the process used to incorporate marijuana into all products produced, including verifying compliance of all processes regulated by a federal, state or local government that would have authority over the business if it was not a marijuana business.
  - (15) A statement of the amount of the projected daily average and peak electric load anticipated to be used by the business and certification from the landlord and utility provider that the premises are equipped to provide the required electric load, or necessary upgrades will be performed prior to final inspection of the premises.
  - (16) For applications for a marijuana-infused product manufacturer, the location of the cultivation facility(ies) which will supply the marijuana for processing in the city owned by the licensee.
- (b) Evidence of Rehabilitation May be Submitted. In the event the history of an owner, member, business manager, financier, or other person named on the application contains information regarding violations of any law, or previous denial or revocation of a license, that person may include with the license application any information regarding such violation, denial or revocation. Such information may include, but is not limited to, evidence of rehabilitation, character references and educational achievements, and other regulatory licenses held without compliance violations, especially those items pertaining to the period of time between the applicant's last violation of any law and the date of the application.
- (c) Fee Required. Any application for a license for a marijuana business under this chapter shall be accompanied by the operating fee, criminal background fee, annual license fee, and any

other applicable fees, as required by Section 4-20-67, “Recreational Marijuana Businesses,” B.R.C. 1981. Unless the state has forwarded the application fee pursuant to Colorado Constitution art. XVIII, § 16(5)(g)(II) to the city, the applicant shall submit the application fee set forth in Section 4-20-67, “Recreational Marijuana Businesses,” B.R.C., 1981 to the city with the application.

(d) Inspection. An inspection of the proposed recreational marijuana business by the city shall be required prior to issuance of a license. Such inspection shall occur after the premises are ready for operation, but prior to the stocking of the business with any recreational marijuana, and prior to the opening of the business to the public. The inspection is to verify that the business facilities are constructed and can be operated in accordance with the application submitted and the applicable requirements of the code and any other applicable law, rule or regulation.

(e) Complete Application. For purposes of this chapter an application shall not be considered complete until the city manager has (i) determined that all requirements of the application have been provided to the city, (ii) received the reports from the fingerprint cards of each person required to submit such cards from the Colorado and Federal Bureaus of Investigation, (iii) received the local share of \$2,500 for the application fee from the state and (iv) obtained all other information the city manager determines necessary to make a decision whether to approve or deny the license application, or approve it with conditions.

(f) Approval Requirements. The city manager may issue a recreational marijuana business license if the inspection, background checks and all other information available to the city verify that the applicant has submitted a full and complete application, has made improvements to the business location consistent with the application, is prepared to operate the business with other owners and managers as set forth in the application, and has submitted the annual operating fee, all in compliance with this Code and any other applicable law, rule or regulation. The city manager will deny any application that does not meet the requirements of this chapter or any other applicable law, rule or regulation or that contains any false or incomplete information. The conditions of an approval of a recreational marijuana business license shall include, at a minimum, operation of the business in compliance with all of the plans and information made part of the application.

#### **6-16-6 Persons Prohibited as Licensees and Business Managers.**

(a) It shall be unlawful for any of the following persons to have an ownership or a financial interest in a recreational marijuana business, and no license provided by this chapter shall be issued to or held by, and no recreational marijuana business shall be managed by:

- (1) Any person until the annual fee for the license has been paid;
- (2) Any person not of good moral character;

- (3) Any corporation, any of whose officers, directors or stockholders are not of good moral character;
- (4) Any partnership, association or company, any of whose officers or members holding an interest therein, or a managing member, are not of good moral character;
- (5) Any person employing, assisted by or financed in whole or in part by any other person who is not of good moral character;
- (6) Any person, unless such person's character, record and reputation are satisfactory to the city manager;
- (7) Any natural person who is under twenty-one years of age;
- (8) Any person who operates or manages a recreational marijuana business contrary to the provisions of this chapter, any other applicable law, rule or regulation, or conditions imposed on land use or license approvals, or contrary to the terms of the plans submitted with the license application, as such plans may be amended as provided in this chapter, or has operated a business in violation of any law;
- (9) Any person applying for a license to operate a recreational marijuana center who has been licensed to operate another recreational marijuana center in the city pursuant to this chapter;
- (10) Any person applying for a license to operate a marijuana-infused product manufacturer facility who has been licensed to operate another marijuana-infused product manufacturer facility in the city pursuant to this chapter;
- (11) A person licensed pursuant to this article who, during a period of licensure, or who, at the time of application, has failed to remedy an outstanding delinquency for taxes owed, or an outstanding delinquency for judgments owed to a government;
- (12) A sheriff, deputy, police officer, or prosecuting officer, or an officer or employee of the state licensing authority or a local licensing authority;
- (13) A person whose authority to be a primary caregiver as defined in § 25-1.5-106(2), C.R.S. has been revoked by the state health agency; or
- (14) A person that is a licensee for the application location that is currently licensed as a retail food establishment or a wholesale food registrant.

(b) In making the evaluation of the good moral character of an individual identified on an application or amendment thereof, the city manager shall consider the following:

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

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

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

(b) Location – Permitted Use in Zoning District. A recreational marijuana business license may be issued only if the business qualifies as a use permitted as a matter of right in the zone district where it is proposed to be located as follows:

- (1) as "personal service" for a recreational marijuana center; or
- (2) as "greenhouse/nursery" for a recreational marijuana cultivation facility; or

- (3) as "manufacturing ≤15,000 square feet" for a recreational marijuana cultivation facility or for a marijuana-infused product manufacturer.
- (c) No Recreational Marijuana Business in Building with Residences or Residential Zone Districts. It shall be unlawful to operate a recreational marijuana business in a building which contains a residence, or within a dwelling unit within any zone district, or within a residential zone district or within a mixed-use development that includes a residence.
- (d) No Retail Sales in Cultivation Facilities or Manufacturing. It shall be unlawful for any person to permit retail sales within a recreational marijuana business that is not a licensed recreational marijuana center.
- (e) Separation from Schools and Other Facilities.
- (1) No recreational marijuana business license shall be issued for a recreational marijuana center at a location within 1,000 feet of any public or private elementary, vocational or secondary school, or a college, university, or a state licensed day care center, or an addiction recovery facility. Distances shall be measured by the city on official maps as the radius from the closest points on the perimeter of the applicant's property to the closest point of the property of the school or named facility.
- (2) No license for a recreational marijuana cultivation facility, a marijuana-infused product manufacturer, or a marijuana testing facility, shall be issued for a location within 500 feet of the real property comprising an elementary, vocational or secondary school or a public or private college, junior college, or university, or a state licensed day care, or an addiction recovery facility. This restriction shall not apply to a medical marijuana cultivation facility that had submitted an application or held a license by the city on October 22, 2013.
- (3) No recreational marijuana business license shall be issued for a recreational marijuana business at a location within 500 feet of three other marijuana businesses.
- (43) No recreational marijuana business license shall be issued for a recreational marijuana center at a location on the street level of the mall or the University Hill commercial area.
- (54) Distances shall be measured by the city on official maps as the radius from the closet points on the perimeter of the applicant's property to the closest point of the property of any other recreational marijuana business.
- (65) To determine the proximity to other recreational marijuana businesses and the priority of applications, businesses shall have priority in the following order:

- (A) Licensed medical marijuana businesses;
  - (B) Marijuana establishment;
  - (C) Businesses for either medical or recreational business whose applications have been approved but licenses not yet issued;
  - (D) Applications for medical or recreational marijuana business licenses that have been submitted by the applicant and declared complete by the city; and
  - (E) No other applications shall be considered "businesses" for this determination.
- (7) Businesses that convert all or part of a medical marijuana business pursuant to Subsection 6-16-3(f) of this code are not subject to paragraphs (1), (2), and (3) of this Subsection 6-16-7(e). This exception is not transferrable.
- (f) Limitations on Dual Licenses. A recreational marijuana business license may not be issued for any location which also is a part of the restricted area of a business holding a beverages license pursuant to Section 4-2-3, "Authority to Issue City Licenses," B.R.C. 1981 or a marijuana business license under this chapter or Chapter 6-14 "Medical Marijuana," B.R.C. 1981.
- (g) Limitations on Recreational Marijuana Centers. The following shall be the minimum requirements for a recreational marijuana center:
- (1) The area of the business is  $\leq 3,000$  square feet, and the restricted area components of the required security and all paper and electronic records are 1,000 square feet or less;
  - (2) The business does not sell or distribute anything other than marijuana and marijuana products or marijuana accessories; and
  - (3) There is a separate reception area for verification of age.
- (h) Limitations on Recreational Marijuana-Infused Product Manufacturers. No marijuana-infused product manufacturer shall be allowed in the city unless the same licensee has a medical or recreational marijuana cultivation facility that provides at least 70% of the marijuana used by the manufacturer located in the city. The area of the premises may not be more than 15,000 square feet.
- (i) Limitation on Cultivation Facility Licenses. No licensee shall hold licenses for more than five marijuana cultivation facilities. This limitation limits the total number of cultivation facility licenses, including both licenses for medical and recreational marijuana cultivation facilities. The area of the premises of a cultivation facility may not be more than 15,000 square feet.

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

- (a) Onsite Use Prohibited. No marijuana shall be smoked, eaten or otherwise consumed or ingested within the recreational marijuana business.
- (b) Restriction on Access to Business. No person under twenty-one years of age shall be in the business premises. No person shall be allowed entry into the business premises area without showing a valid picture identification. The business shall have an electronic scanner able to verify the legitimacy of the identification and maintain records for enforcement, as approved by the city manager. If a person does not have a valid picture identification that the electronic scanner recognizes as legitimate as verification that the person is at least twenty-one years of age, the owner or business manager on the premises shall require that the person leave the business and any surrounding area possessed or controlled by the business.
- (c) Display of Licenses Required. The name and contact information for the owner or owners and any business manager of the recreational marijuana business, the recreational marijuana business license and the sales tax business license shall be conspicuously posted in the business.
- (d) Business Conducted Within Building. Any and all cultivation, production, distribution, possession, storage, display, sales or other distribution of marijuana shall occur only within the restricted area of a recreational marijuana business and shall not be visible from the exterior of the business.
- (e) Owner or Business Manager Required on Premises. No recreational marijuana business shall be managed by any person other than the licensee or the business manager listed on the application for the license or a renewal thereof. Such licensee or business manager shall be on the premises and responsible for all activities within the licensed business during all times when the business is open or in the possession of another person. In the event the licensee intends to employ a business manager that was not identified on the license or renewal application, the licensee shall report the name of such business manager to the city, and such business manager shall submit to the city, at least thirty days prior to commencing serving as the business manager, an application containing all of the information required by this chapter and on the license application. Such licensee shall report to the city any change in business managers at least thirty days prior to employing an additional business manager, and no more than five days after a business manager is released from such position.
- (f) Hours of Operation. A recreational marijuana center shall be closed to the public, and no sale, or other distribution of marijuana shall occur upon the premises or via delivery from the premises, between the hours of 7:00 p.m. and 8:00 a.m.

(g) Use of Pesticides. No pesticides or insecticides which are prohibited by applicable law for fertilization or production of edible produce shall be used on any marijuana cultivated, produced, or distributed by a recreational marijuana business. A recreational marijuana business shall comply with all applicable law regarding use of pesticides including without limitation, Chapter 6-10, "Pesticide Use," B.R.C. 1981.

(h) Ventilation Required. A recreational marijuana business shall be ventilated so that the odor of marijuana cannot be detected by a person with a normal sense of smell at the exterior of the recreational marijuana business or at any adjoining use or property. ~~In addition to any other remedy including revocation of the license, any licensee of a cultivation facility convicted once of violating this provision shall be limited for a period of five years to 500 plants. Any licensee of a cultivation facility convicted of violating this provision twice shall surrender the cultivation facility license and be thereafter barred from obtaining such a license for a period of five years.~~

(i) Renewable Energy Usage Required. A marijuana business shall directly offset 100% of its electricity consumption through the purchase of renewable energy in the form of Windsource, a verified subscription in a Community Solar Garden or renewable energy generated onsite, or an equivalent that is subject to approval by the city. For a recreational marijuana center that has converted pursuant to Subsection 6-16-3(f) or co-located pursuant to Subsection 6-16-3(g), or a marijuana-infused product manufacturer licensed by the city on October 22, 2013, this requirement shall apply at the time of renewal of the marijuana business license following October 22, 2013.

(j) Limitations on Inventory. The recreational marijuana business shall not maintain any more marijuana within the premises than the amount stated on the business' license application to the state and city. No plants shall be located in a recreational marijuana center or a marijuana-infused product manufacturer. In addition, the establishment shall not maintain any more marijuana within the restricted area than:

- (1) Cultivation facility: 1,000 plants, provided however a cultivation facility may have more than 1,000 plants if the licensee provides an additional enforcement fee in an amount of \$1 per plant over 1,000 plants. Such fee shall be payable annually at the time of licensing and renewal; or
- (2) MIP: 600 pounds of marijuana that has not been incorporated into a product and 150 pounds of marijuana-infused products; or
- (3) Testing facility: 100 pounds of raw marijuana and 100 pounds of marijuana-infused product.

(k) Reporting Requirements. A recreational marijuana business shall report to the recreational marijuana licensing authority each of the following within the time specified. If no time is specified, the report shall be provided within 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 recreational marijuana business;
- (4) A notice of potential violation of any law related to the licensee;
- (5) Any report that the recreational marijuana business is required to provide to the state; or
- (6) Reports of all criminal activities or attempts of violation of any law at the recreational marijuana business or related thereto shall be reported to the Boulder Police Department within 12 hours of occurrence.

(l) No Sales Except Directly to User; No Deliveries. All sales of recreational marijuana shall be made in person in the restricted area of a recreational marijuana center. All sales shall be in person, directly to the purchaser. No sales shall be made via telephone, internet or other means of remote purchase. Deliveries shall occur only in person to the purchaser at the time of purchase in the restricted area of a recreational marijuana center.

(m) Delivery Between Recreational Marijuana Businesses. It shall be unlawful for any person to transport recreational marijuana, except as specifically allowed by applicable law, unless the recreational marijuana being transported meets the following requirements:

- (1) All marijuana-infused products are hand-packaged, sealed and labeled as provided in this chapter and the products stored in closed containers that are labeled as provided in this section;
- (2) All recreational marijuana in a usable form is packaged and stored in closed containers that are labeled as provided in this section;
- (3) Each container used to transport recreational marijuana is labeled with the amount of recreational marijuana or marijuana-infused products, or the number and size of the plants, in the container. The label shall include the name and address of the recreational marijuana business that the recreational marijuana is being transported from and the name and address of the recreational marijuana business that the recreational marijuana is being transported to. The label shall be shown to any law enforcement officer that requests to see the label;
- (4) Unless otherwise specifically allowed by applicable law, recreational marijuana may be transported with proper bill of sale completed before transport only:

- (A) From a cultivation facility to a recreational marijuana center or marijuana-infused product manufacturer, and which recreational marijuana business is owned by the same person as owns the cultivation facility; or
  - (B) Between one recreational marijuana center to another center; or
  - (C) Between a marijuana-infused product manufacturer and a medical or recreational marijuana center.
- (5) The recreational marijuana must be accompanied by the manifest and confirmation e-mail from the state in accordance with state requirements for transportation of recreational marijuana;
  - (6) The recreational marijuana must be accompanied by the e-mail receipt confirmation from the Boulder Police Department in accordance with the rules therefore established by the police department;
  - (7) When determining and reporting the route for delivery, licensees should select the most direct route that provides efficiency and safety; and
  - (8) Transport may occur only during the hours allowed for operation of the center.
- (n) Disposal of Recreational Marijuana and Marijuana Byproducts. All recreational marijuana and any product containing a usable form of marijuana must be made unusable and unrecognizable prior to removal from the business in compliance with all applicable laws. This provision shall not apply to licensed law enforcement, including without limitation the Boulder Police Department and the Boulder Fire Department.
- (o) Possession of Mature Flowering Plants. No more than one-half of the recreational marijuana plants within a recreational marijuana business may be mature, flowering plants.
- (p) Advertisement. A recreational marijuana business may not advertise in a manner that is misleading, deceptive, false or is designed to appeal to minors. The following conditions shall apply:
- (1) Except as otherwise provided in this paragraph (1), it shall be unlawful for any person licensed under this article or any other person to advertise any recreational marijuana or recreational marijuana-infused product anywhere in the city where the advertisement is in plain view of, or in, a place open to the general public, including advertising utilizing any of the following media: any billboard or other outdoor general advertising device as defined by the zoning code; any sign mounted on a vehicle; any 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. The prohibition set forth in this paragraph (1) shall not apply to:

- A. Any sign located on the same zone lot as a recreational marijuana center which exists solely for the purpose of identifying the location of the recreational marijuana center and which otherwise complies with this code and any other applicable city laws and regulations; or
  - B. Any advertisement contained within a newspaper, magazine, or other periodical of general circulation within the city or on the internet; or
  - C. Advertising which is purely incidental to sponsorship of a charitable event by a recreational marijuana center or a recreational marijuana-infused products manufacturer.
- (2) It is an affirmative defense if a recreational marijuana business employee provided another individual, upon request, a business card for the purpose of providing that person's name and business affiliation, including without restriction, title, mailing address, email address, and telephone number;
- (3) ~~It shall be unlawful for any~~ No marijuana business ~~to shall~~ distribute or allow the distribution of any marijuana without charge within a marijuana business or any place open to the public for the purpose of promotion or advertising;
- (4) ~~No It shall be unlawful for any~~ marijuana business shall ~~to~~ distribute or allow the distribution of any coupon or similar writing, electronically or on paper, which purports to allow the bearer to exchange the same for any marijuana product either free or at a discount; and
- (5) No medical marijuana business shall sell, distribute or provide, or allow the sale, distribution or provision of, products marked with its name or logo, other than packaging in which ~~medical~~ marijuana is sold or on medical marijuana products. This prohibition shall not prevent employees of the business from wearing uniforms with the name or logo while working for the business on the business premises.

(q) The owner or a business manager of a recreational marijuana business is required to respond by phone or email within 24 hours of contact by a city official concerning its recreational marijuana business at the phone number or e-mail 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) Separation of Marijuana Businesses. A cultivation facility and manufacturer are separate marijuana businesses requiring separate licenses and separate premises. A medical marijuana center or cultivation facility and a recreational marijuana center or cultivation facility are separate marijuana businesses requiring separate licenses and separate premises. In addition to all other application requirements for separate premises, each business shall:

- (1) Have separate operations, ventilation, security, and fire suppression systems, and separate access from a public area; and
  - (2) Be divided within a building from floor to roof. Unless higher performance is required by applicable law, there must be a minimum of a one-hour fire separation between a recreational marijuana business and any adjacent business; and
  - (3) Obtain delivery documents and manifests for movement of any marijuana between the cultivation facility and the manufacturer.
- (s) Additional Requirements for Testing or Production of Recreational Marijuana.
- (1) No recreational marijuana business may use metals, butane, propane, or other solvent or flammable product, or produce flammable vapors to process or test marijuana unless the process used and the premises are verified as safe and in compliance with all applicable codes by a qualified industrial hygienist; and
  - (2) The city shall require the business to obtain verification from a qualified industrial hygienist that the manner in which the business producing or testing marijuana complies with all applicable laws and does not produce noxious or dangerous gases or odors or otherwise create a danger to any person or entity in or near the businesses.
- (t) Packaging at a Recreational Marijuana Center. Provided that recreational marijuana has been delivered to a recreational marijuana center from a cultivation facility packaged and labeled as provided in this chapter, employees at a recreational marijuana center may package and label any marijuana that results from the sale of recreational marijuana in amounts less than as packaged for delivery to the center.
- (u) Packaging of Marijuana-Infused Product. Unless the actual amount of marijuana in a marijuana-infused product is contained on the label of the packaged product, any product over one ounce shall be presumed to have more than one ounce of marijuana in the product.
- (v) Scanner for Proof of Age. The marijuana business shall verify the proof of age of every person entering the business with an electronic ID scanner. An “electronic ID scanner” is a device that is capable of quickly and reliably confirming the validity of an identification using computer processes that contains all of the components approved by the city manager.
- (w) Organization of Cultivation Facilities. All cultivation facilities shall be organized in orderly rows with aisles at least ~~threesix~~ feet wide, and no more than eight feet between an aisle and the next aisle or the aisle and a wall, and clear access to all exits, unless the city manager determines that the business has provided a dimensioned floor plan that provides equivalent access and separation between plants and to exits.

**6-16-9 Right of Entry – Records to be Maintained.**

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

(b) Separate Bank Accounts. The revenues and expenses of the recreational marijuana business shall not be commingled in a checking account or any other bank account with any other business or individual person's deposits or disbursements.

(c) Disclosure of Records. By applying for a recreational marijuana business license, the licensee is providing consent to disclose the information required by this chapter. Any document that the applicant considers eligible for protection under the Colorado Open Records Act shall be clearly marked as confidential, and the reasons for such confidentiality shall be stated on the document. In the event that the licensee does appropriately submit documents so as not to be disclosed under the Colorado Open Records Act, the city shall not disclose it to other parties who are not agents of the city, except law enforcement agencies. If the city finds that such documents are subject to inspection as public records of the city, it will attempt to provide at least twenty-four hour notice to the applicant prior to such disclosure.

(d) Audits. The city may require an audit to be made of the books of account and records of a recreational marijuana business on such occasions as it may consider necessary. Such audit may be made by an auditor to be selected by the city that shall likewise have access to all books and records of the recreational marijuana business. The expense of any audit determined necessary by the city shall be paid by the recreational marijuana business.

(e) Consent to Inspection. Application for a recreational marijuana business license or operation of a recreational marijuana business, or leasing property to a recreational marijuana business constitutes consent by the applicant, and all owners, managers and employees of the business, and the owner of the property, to permit the city manager to conduct routine inspections of the recreational marijuana business to ensure compliance with this chapter or any

other applicable law, rule or regulation. The owner or business manager on duty shall retrieve and provide the records of the business pertaining to the inspection, including the security tapes from the cameras required by the security plan. For purposes of Rule 241 of the Colorado Rules of Municipal Procedure and Subsection 2-6-3(e) of this code, inspections of recreational marijuana businesses and recordings from security cameras in such businesses are part of the routine policy of inspection and enforcement of this chapter for the purpose of protecting the public safety, individuals operating and using the services of the recreational marijuana business, and the adjoining properties and neighborhood, as provided in Section 6-14-1, "Legislative Intent and Purpose," B.R.C. 1981. Application for a recreational marijuana business license constitutes consent to inspection of the business as a public premise without a search warrant, and consent to seizure of any surveillance records, camera recordings, reports or other materials required as a condition of a recreational marijuana license without a search warrant.

(f) Reporting of Source, Quantity and Sales. The records to be maintained by each recreational marijuana business shall include the source and quantity of any marijuana distributed, produced or possessed within the premises. Such reports shall include, without limitation, for both acquisitions from wholesalers and retail sales transactions, the following:

- (1) Date, weight, type of marijuana and dollar amount or other consideration of transaction; and
- (2) For wholesale transactions, the Colorado, and city if any, sales and use tax license number of the seller; and
- (3) The amount of marijuana within the restricted area.

(g) Reporting of Energy Use and Renewable Energy Credit (REC) Purchases. The records to be maintained by each recreational marijuana business shall include without limitation records showing on a monthly basis the use and source of energy and the number of certified Renewable Energy Credits (RECs) purchased, or the subscription level for another renewable energy acquisition program approved by the city manager. A statement of the projected daily average peak electric load anticipated to be used by the business and certification from the building owner or landlord and utility provider that the premises are equipped to provide the required electric load, or necessary upgrades will be performed. Such records shall include all statements, reports or receipts to verify the items included in the report of the business. By application for a recreational marijuana business license from the city, the recreational marijuana business grants permission to providers of the energy or point of origin of the RECs or other renewable energy acquisition program to disclose the records of the business to the city. For recreational marijuana business that cultivate recreational marijuana the report shall include the number of certified RECs purchased, or the subscription level for another renewable energy acquisition program approved by the city manager.

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

All components of the security plan submitted with the application, as it may be amended, shall be in good working order, monitored and secured 24-hours per day. A separate security system is required for each business. The security plan must include, at a minimum, the following security measures:

- (a) **Cameras.** The recreational marijuana business shall install and use security cameras to monitor and record all areas of the premises (except in restrooms), and where persons may gain or attempt to gain access to marijuana or cash maintained by the recreational marijuana business. Cameras shall record operations of the business to the off-site location, as well as all potential areas of ingress or egress to the business with sufficient detail to identify facial features and clothing. Recordings from security cameras shall be maintained for a minimum of forty days in a secure off-site location in the city or through a service over a network that provides on-demand access, commonly referred to as a “cloud.” The off-site location shall be included in the security plan submitted to the city and provided to the Boulder Police Department upon request, and updated within 72 hours of any change of such location.
- (b) **Use of Safe for Storage.** The recreational marijuana business shall install and use a safe for storage of any processed marijuana and cash on the premises when the business is closed to the public. The safe shall be incorporated into the building structure or securely attached thereto. For marijuana-infused products that must be kept refrigerated or frozen, the business may lock the refrigerated container or freezer in a manner authorized by the city in place of use of a safe so long as the container is affixed to the building structure.
- (c) **Alarm System.** The recreational marijuana business shall install and use an alarm system that is monitored by a company that is staffed twenty-four (24) hours a day, seven (7) days a week. The security plan submitted to the city shall identify the company monitoring the alarm, including contact information, and updated within 72 hours of any change of monitoring company.

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

- (a) **Recreational Marijuana-Infused Products.** The production of any marijuana-infused product shall be at a marijuana-infused product manufacturer that meets all requirements of a retail food establishment as set forth in § 25-4-1601, et seq., C.R.S., the Food Protection Act. The production of any product containing marijuana shall comply with all health and safety standards thereof. The licensee shall comply with all applicable state and local health regulations related to the production, preparation, labeling and sale of prepared food items as if the recreational marijuana infused products were food items.
- (b) **Labeling and Packaging Requirements.** All recreational marijuana sold or otherwise distributed by the licensee shall be packaged and labeled in a manner that advises the purchaser

that it contains marijuana and specifies the amount of marijuana in the product, and that the marijuana is intended for use solely by a person lawfully possessing recreational marijuana. The label shall be in compliance with all applicable requirements of the state.

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

#### **6-16-12 Compliance with Other Applicable Law.**

(a) Application of State Law. Except as may be provided otherwise in this chapter, or rules adopted pursuant to this chapter or interpretations by the city, any law or regulation adopted by the state governing the cultivation, production, possession or distribution of marijuana for recreational use shall also apply to recreational marijuana businesses in the city. Provided however, if a state law or regulation permits what this chapter prohibits, this chapter shall prevail. Compliance with any applicable state law or regulation that does not permit what this chapter prohibits shall be deemed an additional requirement for issuance or denial of any license under this chapter, and noncompliance with any applicable state law or regulation is unlawful and shall be grounds for revocation or suspension of any license issued under this chapter. No recreational marijuana business shall continue operations in violation of an additional state law or regulation, which does not permit what this chapter prohibits, applicable within the city after the effective date of the state law or regulation.

(b) Revocation of License Upon Denial or Revocation of State License or Applicable Federal Prohibition. If the state prohibits the cultivation, production, possession or other distribution of marijuana through recreational marijuana businesses, or if a recreational marijuana business is denied a recreational marijuana business license or has such license revoked pursuant to § 12-43.3-101, et seq., C.R.S. or if a court of competent jurisdiction determines that the federal government's prohibition of the cultivation, production, possession or other distribution of marijuana through recreational marijuana businesses supersedes state law, any license issued pursuant to this chapter shall be deemed to be immediately revoked by operation of law, with no ground for appeal or other redress on behalf of the licensee.

(c) Revocable Privilege. A recreational marijuana business license is a revocable privilege, and no applicant therefore or holder thereof shall be deemed to have acquired any property interest therein.

#### **6-16-13 Prohibited Acts.**

(a) Prohibited Acts. It shall be unlawful for any person to:

- (1) Cultivate, distribute, possess, produce, smoke, use or ingest marijuana openly or publicly in a place open to the general public;

- (2) Smoke, use or ingest on the premises of the recreational marijuana business (1) marijuana, (2) fermented malt beverage, (3) malt, vinous and spirituous liquor, or (4) a controlled substance, except in compliance with the directions on a legal prescription for the person from a doctor with prescription writing privileges;
- (3) Operate or be in physical control of any recreational marijuana business, liquor establishment, vehicle, aircraft or motorboat while under the influence of alcohol or marijuana or other intoxicant;
- (4) Possess more than six marijuana plants without a recreational marijuana business license for a cultivation facility;
- (5) Possess more than one ounce of a usable form of marijuana without a recreational marijuana business license for a center or a marijuana-infused product manufacturer;
- (6) Obtain marijuana for remuneration from a person who is not licensed as a recreational marijuana business;
- (7) Possess or operate a recreational marijuana business in violation of this chapter;
- (8) Produce, distribute or possess more marijuana than allowed in this chapter, or than disclosed in the application to the state for a recreational marijuana business license, or other applicable law;
- (9) Distribute marijuana for remuneration without a recreational marijuana business license or outside of the restricted area of the recreational marijuana business;
- (10) Possess recreational marijuana, or own or manage a recreational marijuana business, or own or manage a building with a recreational marijuana business, where there is possession of recreational marijuana, by a person who is not lawfully permitted to possess recreational marijuana;
- (11) Possess or operate a recreational marijuana business in a location or in a manner for which a recreational marijuana business license is prohibited by the terms of this chapter;
- (12) Operate a recreational marijuana business without a recreational marijuana business license from the city;
- (13) Operate a recreational marijuana business in a manner that is not consistent with the items disclosed in the application for the recreational marijuana business, or is in violation of any plan made part of the license application;
- (14) Operate a recreational marijuana business without disclosing, in the application for a recreational marijuana business license or an amendment thereto, an agent who either (1) acts with managerial authority, (2) provides advice to the

recreational marijuana business for compensation, or (3) receives periodic compensation totaling \$1,000 or more in a single year for services related to the recreational marijuana business. It shall be an affirmative defense that the undisclosed person was an attorney, accountant, bookkeeper, or mail delivery person;

- (15) Own or manage a recreational marijuana business where distribution occurs of a marijuana-infused product that was produced in a manner that is not in compliance with this chapter;
- (16) Operate a recreational marijuana business without a recreational marijuana business license prior to passing the inspection required by this chapter;
- (17) Make any changes, or for the licensee to allow any changes, to the items included in the plans submitted with the license application and approved by the city, or the individuals identified in the application, without prior approval of the city;
- (18) Attempt to use or display a recreational marijuana business license at a different location or for a different business entity than the location and business entity disclosed on the application for the issued license;
- (19) Own or manage a recreational marijuana business in which another person cultivates, produces, distributes or possesses marijuana, in violation of this chapter or any other applicable law;
- (20) Allow an owner or business manager that has not been disclosed to the city as required by this chapter to operate the business;
- (21) Own, manage or possess a recreational marijuana business where marijuana is outside of the restricted area portion of such business.
- (22) Possess a number of flowering plants that is more than one-half of the recreational marijuana plants that are lawfully possessed by a person;
- (23) Dispose of marijuana or any byproduct of marijuana containing marijuana in a manner contrary to this chapter;
- (24) Distribute a marijuana plant to any person;
- (25) Deliver or transport marijuana to a person or between recreational marijuana businesses in a manner contrary to this chapter or other law;
- (26) Refuse to allow inspection of a recreational marijuana business upon request of a city employee or consultant of the city. Any licensee, owner, business manager, or operator of a recreational marijuana business, or the owner of the property where a recreational marijuana business is located, may be charged with this violation;

- (27) Advertise or publish materials or display signs that are in violation of this code;
- (28) Violate any provision of this code or any condition of an approval granted pursuant to this code or any law, rule or regulation applicable to the use of recreational marijuana or the operation of a recreational marijuana business;
- (29) Permit any other person to violate any provision of this code or any condition of an approval granted pursuant to this code, or any law, rule or regulation applicable to the use of recreational marijuana or the operation of a recreational marijuana business;
- (30) Lease any property to a recreational marijuana business that has marijuana on the property without a recreational marijuana business license from the city;
- (31) Operate a private club where marijuana is possessed or used by any person at the private club;
- (32) Remove marijuana harvested from a plant from the enclosed locked space where the plant was grown, except as provided in this chapter;
- (33) Distribute marijuana within a recreational marijuana center to any person who shows visible signs of intoxication from alcohol, marijuana, or other drugs; or
- (34) Permit a minor on the premises of the business;

(b) Prima Facie Evidence. Prima facie indicia of impairment or being under the influence of marijuana includes bloodshot eyes, watery eyes, eyelid tremors, green particulate on tongue, dilated pupils, or dry mouth, or any other indicators of impairment.

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

(a) A recreational marijuana business license may be suspended or revoked for any of the following violations:

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

- (4) Distribution of recreational marijuana, including, without limitation, delivery or transporting marijuana, in violation of this chapter or any other applicable law, rule or regulation;
- (5) Operation of a recreational marijuana business in violation of the specifications of the license application, any conditions of approval by the city, or any violation of this chapter or any other law, rule or regulation applicable to the use of recreational marijuana or operation of a recreational marijuana business;
- (6) Failure to maintain, or provide to the city upon request, any books, recordings, reports or other records required by this chapter;
- (7) Failure to timely notify the city and to complete necessary city forms for changes in financial interest, business managers, financier or agent;
- (8) Temporary or permanent closure, or other sanction of the business, by the city, or by the county or State Public Health Department or other governmental entity with jurisdiction, for failure to comply with health and safety provisions of this chapter or otherwise applicable to the business or any other applicable law;
- (9) Revocation or suspension of another recreational marijuana business license or any other license issued by the city, the state, or any other jurisdiction held by any licensee of the recreational marijuana business; or
- (10) Failure to timely correct any violation of any law, or comply with any order to correct a violation of any law within the time stated in the notice or order.

(b) In the event a business or licensee is charged with violation of any law, upon which a final judgment would be grounds for suspension or revocation of the license, the city may suspend the license pending the resolution of the alleged violation.

(c) Civil penalties for violations of this chapter may be imposed by the city against the business or any licensee up to \$5,000 per licensee per occurrence.

(d) If the city revokes or suspends a license, the business may not move any marijuana from the premise except under the supervision of the Boulder Police Department.

#### **6-16-15 Term of License – Renewals – Expiration of License.**

(a) **Term of License.** A recreational marijuana business license shall be valid for one year. The license shall expire on the date stated on the license, but no more than twenty-four months, to facilitate the administration by the city of renewals and coordinate with the date for renewal of the state license of such licenses.

(b) **Renewal of License.** The licensee shall apply for renewal of the recreational marijuana business license at least forty-five days before the expiration of the license. The licensee shall

apply for renewal using forms provided by the city. If the applicant fails to apply for renewal at least forty-five days before the expiration of the license, but does apply for renewal prior to expiration of the license, the city may process the renewal application if the application submits a late filing fee of \$5,000 at the time of submittal of the renewal application.

- (1) The renewal license fee, and late fee if applicable, shall accompany the renewal application. Such fee is nonrefundable.
- (2) In the event there has been a change to any of the plans identified in the license application which were submitted to and approved by the city with the application or an earlier renewal, the renewal application shall include specifics of the changes or proposed changes in any of such plans.
- (3) In the event any person who has an interest as described in the disclosures made to the city pursuant to this chapter, or any business manager, financier, agent as defined herein or employee has been charged with or accused of violations of any law since such disclosure, the renewal application shall include the name of the violator, the date of the violation, the court and case number where the violation was filed and the disposition of the violation with the renewal application.
- (4) In the event the business license has been suspended or revoked or a licensee has received any notice of violation of any law, the renewal application shall include a copy of the notice, suspension, or revocation.
- (5) The renewal application shall include verification that the business has a valid state license and the state license is in good standing.
- (6) The renewal application shall include a summary report for the previous twelve months showing the amount of marijuana purchased; the amount of marijuana sold, the forms in which marijuana was sold; the police report numbers or case numbers of all police calls to the recreational marijuana business; and for calls resulting in a charge of a violation of any law, the charge, case number and disposition of any of the charges.
- (7) The city shall not accept renewal applications after the expiration of the license, but instead shall require the applicant to file a new license application.
- (8) In the event there have been allegations of violations of this code by any of the licensees or the business submitting a renewal application, the city may hold a hearing pursuant to Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, prior to approving the renewal application. The hearing shall be to determine whether the application and proposed licensees comply with this chapter and whether the operation of the business has been in compliance with this code. If the city does not hold a hearing and the application and the licensees do not meet the requirements of this chapter, or the business has been operated in the past in violation of this code, the renewal application may be denied or issued with

conditions, and the decision shall be final subject to judicial review as provided in Subsection 6-16-4(e).

(c) **Nonpayment of Tax.** In the event a recreational marijuana business that has been open and operating and submitting monthly sales and use tax returns to the city ceases providing sales and use tax returns to the city for a period of three months or longer, the recreational marijuana business license shall be deemed to have expired and a new license shall be required prior to reopening at the location of the business.

(d) **Expiration of License.** Expiration of a recreational marijuana business license for any reason including without limitation, pursuant to subsection (c) above shall be considered an inactive local license as described in § 12-43.3.312, C.R.S.

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

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

Section 2. A new section 4-20-67, B.R.C. 1981, is added to read:

**4-20-67 Recreational Marijuana Businesses.**

Application and license fees for recreational marijuana businesses shall be up to the following amounts:

- |     |                                                                                                                                                                            |              |
|-----|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|
| (a) | Application fee for conversion of licenses under Chapter 6-14, “Medical Marijuana,” B.R.C. 1981 (to be received from the state before application is deemed complete):     | \$ 250       |
| (b) | Application fee for new recreational marijuana licenses not converted from medical marijuana businesses (to be received from state before application is deemed complete): | \$ 2,500     |
| (c) | Criminal background check fee, per person checked:                                                                                                                         | Actual Costs |
| (d) | License fee, per year:                                                                                                                                                     | \$ 2,475     |
| (e) | Operating fee, per year                                                                                                                                                    | \$ 2,000     |
| (f) | Renewal application fee, per year:                                                                                                                                         | \$ 3,480     |
| (g) | Application for a new business manager:                                                                                                                                    | \$ 150       |

- |                                                                         |                        |
|-------------------------------------------------------------------------|------------------------|
| (h) Business entity changes or addition of financiers:                  | \$ 2,000               |
| (i) Modification of premises:                                           | \$ 3,000               |
| (j) Excess plant fee for each plant over 1,000 in cultivation facility: | \$1 annually per plant |

The application fee, operating fee, costs, excess plant fee, and renewal fee paid are nonrefundable. The new license fee may be refunded if the new license application is denied. No fee will be refunded in the instance of suspension or revocation.

Section 3. This ordinance is necessary to protect the public health, safety, and welfare of the residents of the city, and covers matters of local concern.

Section 4. The City Council finds that preservation of the public, peace, health, and property justify the adoption of this ordinance as an emergency measure. The nature of the emergency is described, in part, by the findings of fact set forth in this ordinance. The City Council further finds that changes were adopted by the council at second reading and this is the last meeting before this council's term expires on November 19, 2013 when this ordinance must be finally adopted. Therefore, the City Council orders that this ordinance shall be effective upon passage.

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

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY  
TITLE ONLY this 3<sup>rd</sup> day of September 2013.

Attest:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

READ ON SECOND READING, PASSED, ADOPTED AS AN EMERGENCY  
MEASURE BY TWO-THIRDS OF COUNCILMEMBERS PRESENT, AND ORDERED  
PUBLISHED BY TITLE ONLY this 12th day of November, 2013.

Attest:

\_\_\_\_\_  
Mayor

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City Clerk

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ORDINANCE NO. 7931

AN EMERGENCY ORDINANCE ADDING SECTION 5-10-6  
B.R.C. 1981, AND SETTING FORTH RELATED DETAILS.

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

Section 1. Adding 5-10-6 to read:

**5-10-6 Marijuana Odor Emissions,**

- (a) No person, tenant, occupant, or property owner shall permit the emission of marijuana odor from any source to result in detectable odors that leave the premises upon which they originated and interfere with the reasonable and comfortable use and enjoyment of another's property.
- (b) Whether or not a marijuana odor emission interferes with the reasonable and comfortable use and enjoyment of a property shall be measured against the objective standard of a reasonable person of normal sensitivity.
- (c) A marijuana odor emission shall be deemed to interfere with reasonable and comfortable use and enjoyment of property if the city manager receives three (3) or more complaints concerning a single marijuana odor emanating from the same source from individuals representing separate households, rooming units, or places of business within the city ~~relating to a single marijuana odor source.~~
- (d) No person shall be convicted of a violation of this section unless the city manager has delivered or posted a written warning, in the previous 12 months, that conduct violating this section is occurring or has occurred.
- (1) The person, tenant, occupant, or property owner must abate the marijuana odor emission within 7 days after the warning is delivered or posted.
  - (2) Seven or more days after a warning is posted or delivered, a separate violation of this section occurs on each day that the marijuana odor emission repeats or continues.
  - (3) The warning shall cite this section.
  - (4) The warning may be delivered personally or posted on the property.
  - (5) It shall be presumed that a person charged under this section received the warning if the warning was either (i) delivered to the property owner, a tenant, or an occupant; or (ii) posted on the property.

1 (e) Extended grace period for licensed marijuana cultivation facilities. No person who receives a  
2 warning at a licensed marijuana cultivation facility shall be convicted of a violation that  
3 allegedly occurred within 90 days after the first warning issued pursuant to subsection (d), if  
4 all of the following conditions are met:

- 5 (1) A first warning within 12 months ~~was~~ previously issued pursuant to subsection (d) of  
6 this section for the person's property, and the subject property is licensed as a  
7 marijuana cultivation facility by the city or the state; and  
8 (2) Seven or fewer days after the warning ~~was~~ posted or delivered, the person submitted  
9 a written document to the city manager which explained (i) why the marijuana odor  
10 emissions ~~cannot~~ could not be abated within 7 days feasibly and (ii) how the person  
11 planned to abate the marijuana odor emission in the following 90 days;  
12 (2)(3) The person receiving the warning has diligently pursued to completion the plans  
13 for abating the marijuana odor emission; and  
14 (3)(4) The written document described in paragraph (2) was submitted fewer than 90  
15 days before the date of the violation ~~charged in the summons and complaint.~~

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

18 Section 3. The City Council finds that preservation of the public, peace, health, and  
19 property justify the adoption of this ordinance as an emergency measure. The nature of the  
20 emergency is described, in part, by the findings of fact set forth in this ordinance. The City  
21 Council further finds that changes were adopted by the council at second reading and this is the  
22 last meeting before this council's term expires on November 19, 2013 when this ordinance must  
23 be finally adopted. Therefore, the City Council orders that this ordinance shall be effective upon  
24 passage.

25 Section 4. The City Council deems it appropriate that this ordinance be published by title  
only and orders that copies of this ordinance be made available in the office of the city clerk for  
public inspection and acquisition.

Field Cod

1           INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY  
2 TITLE ONLY this 3rd day of September, 2013.

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Attest: \_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

READ ON SECOND READING, PASSED, ADOPTED AS AN EMERGENCY  
MEASURE BY TWO-THIRDS OF COUNCILMEMBERS PRESENT, AND ORDERED  
PUBLISHED BY TITLE ONLY this 12th day of November, 2013.

Attest: \_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

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## **Council Working Agreements**

### **Council Process:**

- The Council will work on general discipline in being prepared to ask questions and make comments.
- The Council asks the Mayor to intervene if discussion on agenda items extends beyond a reasonable time frame.
- The council will engage in the practice of colloquy to fully explore the different sides of a specific point.
- The Mayor will ask the city clerk to set the timer lights for council members if discussions begin to exceed efficient debate. Members should respect the lights as a time reminder, but will not be bound by them as absolute limits.
- Rather than restating a point, council members should simply say "I agree."
- The council agenda committee may, with advance notice, adjust each public speaker's time to two rather than three minutes during public hearings for items on which many speakers want to address the council.
- Council members will grant each other permission to mentor and support each other on how each person contributes to the goal of being accountable for demonstrating community leadership.
- In order to hear each other respectfully and honor the public, council will avoid body language that could convey disrespect, side conversations, talking to staff, whispering to neighboring council members, passing notes, and leaving the council chambers.
- Regarding not revisiting past discussions, the council should check-in with fellow members periodically to ensure that this is not an issue.

### **Council Communication:**

- Council members agree to keep quasi-judicial roles scrupulously clean between members of boards and members of council, like expressing ideas to board members on things coming before the Board, and carefully disclose or recuse themselves when they're involved with board members on a topic.
- Council agrees to e-mail the city manager about issues that they run into that staff or boards may be working on so that the manager can be actively involved in managing issues and keeping the full council informed well in advance of items coming before council for action.
- Members will keep the full council informed on issues from committees, public groups or other agencies that they are following, the a hot line e-mails, brief verbal reports at the end of council meetings or other means.
- The Council will find ways to support majority council decisions and adequately inform the public, through response letters that explain how divergent points of view were heard and honored in decisions, via standard e-mail responses for hot issues, by occasional council Letters to the Editor to clarify the facts, or by seeking out reporters after meetings to explain controversial decisions.

### **Council Committees**

- Council goal committee meetings will be scheduled to accommodate the council members on the committee.
- Notice of the times and places for each goal committee meeting will be noticed once per month in the Daily Camera.
- The council agenda will include time for reports from committees under Matters from Members of Council, noting that written communications from the committees are appropriate as well.

**2013  
Study Session Calendar**

<b>Date</b>	<b>Topic</b>	<b>Time</b>	<b>Televised</b>
12/10/13	Pre-Council Retreat Work		
12/10/13	Community Survey		
<b>12/24/13</b>	<b>No Meeting</b>		

**November 19, 2013**  
**Start Time: 6:00 PM Business Meeting**  
**Location: Library Auditorium, 1001 Arapahoe Ave**

Agenda Section	Item Name	Time
<b>OPEN COMMENT:</b>		45 Minutes
<b>CONSENT:</b>	Motion to dispose of any real or personal property interests necessary for the creation and formation of the Randolph Commercial and Parking Condos	10 Minutes
	Authorize City manager to enter into a 3 year lease extension containing an option to renew for an additional 3 years between Boulder and Mustard's Last Stand	
	Fee Ordinance Change	
	BRC Emergency Ordinance implementing tax items approved by voters	
	First Reading of the Second Adjustment to Base Ordinance	
<b>PUBLIC HEARINGS:</b>	2nd Reading Grandview Bungalow Relocation Project	1 Hour
<b>MATTERS FROM CITY MANAGER:</b>	Municipalization Exploration Update	10 Minutes
	Evaluation Committee: Six Month Check-in	10 Minutes
	Legislative Agenda	1 Hour
<b>MATTERS FROM CITY ATTORNEY:</b>		
<b>MATTERS FROM MAYOR AND MEMBERS:</b>	Creation and Appointment of Members to a Council Subcommittee on the Community Survey	15 minutes
<b>CALL-UPS:</b>	Site Review to redevelop the former Boulder County fire training center site located at 820 Lee Hill Drive into 31 single family homes served by new public right of way	
	<b>Total Estimated Meeting Time (Hours)</b>	<b>3.50</b>

December 3, 2013		
Start Time: 6:00 PM Business Meeting		
Location: Library Auditorium, 1001 Arapahoe Ave.		
Agenda Section	Item Name	Time
<b>SPECIAL PRESENTATIONS:</b>	Flood Cleanup and Recovery Comprehensive Update	1.5 Hours
<b>OPEN COMMENT:</b>		45 Minutes
<b>CONSENT:</b>	Second adjustment to Base - CAGID Resolution	10 Minutes
	First Reading of an ordinance to renew the cable television franchise agreement between the City of Boulder and Comcast of Colorado LLC	
	Approve a new air rights lease for the alley bridge at 1048 Pearl St. approved as part of the former Daily Camera site redevelopment - located in DT-5 zoning district	
	Legislative Agenda	
	Second Reading of Second Adjustment to Base of the 2013 Budget	
<b>PUBLIC HEARINGS:</b>	2nd Reading BRC Emergency Ordinance implementing tax items approved by voters	15 Min.
	2nd Reading Fee Ordinance Change	15 Min.
<b>MATTERS FROM CITY MANAGER:</b>		
<b>MATTERS FROM CITY ATTORNEY:</b>		
<b>MATTERS FROM MAYOR AND MEMBERS:</b>		
<b>CALL-UPS:</b>		
	<b>Total Estimated Meeting Time (Hours)</b>	<b>2.92</b>

December 17, 2013		
Start Time: 6:00 PM Business Meeting		
Location: Library Auditorium, 1001 Arapahoe Ave.		
Agenda Section	Item Name	Time
<b>OPEN COMMENT:</b>		45 Minutes
<b>CONSENT:</b>	1st Reading Jewish Commons Annexation	10 Minutes
<b>PUBLIC HEARINGS:</b>	Second Reading of an ordinance to renew the cable television franchise agreement between the City of Boulder and Comcast of Colorado LLC	1 Hour
<b>MATTERS FROM CITY MANAGER:</b>	Municipalization Exploration Project Update	2 Hours
	Approval of an MOU to pursue a public/private development of the 14th Street parking lot between UHGID and Del Mar Interests	15 Minutes
<b>MATTERS FROM CITY ATTORNEY:</b>		
<b>MATTERS FROM MAYOR AND MEMBERS:</b>		
<b>CALL-UPS:</b>		
	<b>Total Estimated Meeting Time (Hours)</b>	<b>4.17</b>

## City Council Goals – 2013

### Top Priorities:

#### **1. Boulder's Energy Future**

The top priority for the City in 2013 is the development of a framework for planning the energy future for the city of Boulder. This framework will focus on the idea of localization, the overarching goal of which is:

**To ensure that Boulder residents, businesses and institutions have access to energy that is increasingly clean, reliable and competitively priced.**

#### **2. Climate Action Plan**

Outline the next generation of climate action efforts in Boulder

Consider extension of CAP tax

#### **3. Affordable Housing**

Receive report of the Task force created in 2010 to evaluate goals and the approach to affordable housing and Based on Council review and discussion of these recommendations, develop an action plan to improve the availability of affordable housing in the city

Consider policies regarding inclusionary housing for rental units

#### **4. Civic Center Master Plan**

Study and develop a master plan for the area between 15th and 9th Streets, with a focus on Farmer's Market and area between Broadway and 15th Street.

**Next Tier Priorities:**

**1. University Hill Revitalization**

Continue work of Ownership Group to develop comprehensive revitalization strategy

Investigate formation of a general improvement district, including the commercial area and part of the residential area to control trash and other problems

Change boundaries of BMS land use to coincide with UHGID through BVCP process

Support private development and investment in Hill area

Partner with CU to consider opportunities for properties in the Hill area

Provide an opportunity to explore big ideas

**2. Homelessness**

Participate in Ten Year Plan to Address Homelessness

Balance long term and short term approaches to address needs

Invest new resources in Housing First model

Work with partners, such as BOHO, to address approaches to immediate needs

**3. Boulder Junction Implementation**

Work with RTD and selected developer of site to maximize mixed use urban center

Invest in planned infrastructure

Achieve goals of plan while ensuring flexibility in working with developers

Prioritize city actions to facilitate private investment

Focus additional planning work on reconsidering use for Pollard site



**City Council  
2013 Work Plan by Council Goal**

**TOP PRIORITIES**

<b>GOAL: Boulder's Energy Future</b>			
<b>1<sup>st</sup> Quarter</b>	<b>2<sup>nd</sup> Quarter</b>	<b>3<sup>rd</sup> Quarter</b>	<b>4<sup>th</sup> Quarter</b>
<ul style="list-style-type: none"> <li>▪ Boulder's Energy Future – ongoing analysis of municipalization and work on Energy Action Plan with updates to council at roundtables</li> <li>▪ Recommended strategies to achieve community's energy goals - Study Session and Public Hearing</li> </ul>	<ul style="list-style-type: none"> <li>▪ Boulder's Energy Future – based on the strategies approved by Council in 1<sup>st</sup> Quarter, ongoing analysis of municipalization and work on Energy Action Plan with updates to council at roundtables</li> <li>▪ Municipalization Exploration Project Work Plan Phase 2 – Study Session</li> </ul>	<ul style="list-style-type: none"> <li>▪ Boulder's Energy Future – ongoing analysis of municipalization and work on Energy Action Plan with updates to council at roundtables</li> <li>▪ Study Session</li> </ul>	<ul style="list-style-type: none"> <li>▪ Boulder's Energy Future – ongoing analysis of municipalization and work on Energy Action Plan with updates to council at roundtables</li> <li>▪ Study Session</li> </ul>

<b>GOAL: Climate Action Plan</b>			
<b>1<sup>st</sup> Quarter</b>	<b>2<sup>nd</sup> Quarter</b>	<b>3<sup>rd</sup> Quarter</b>	<b>4<sup>th</sup> Quarter</b>
<ul style="list-style-type: none"> <li>▪ Boulder Canyon Hydroelectric Project</li> <li>▪ Climate Commitment – RFQ for consulting assistance for targets and goal setting, development of new GHG inventory, and tracking and reporting tools</li> <li>▪ Energy Efficiency:               <ul style="list-style-type: none"> <li>○ Launch of 2013 program priorities</li> <li>○ Upgrades in City Buildings – employee education and outreach project (IP)</li> </ul> </li> <li>▪ Disposable Bag Fee – implementation plan and revised budget (IP)</li> <li>▪ Transportation Master Plan (TMP) –</li> </ul>	<ul style="list-style-type: none"> <li>▪ Commercial Energy Efficiency Strategy (CEES) - feedback on options (Study Session)</li> <li>▪ Climate Commitment – Study Session to review program annual targets, short/ long term goals, tracking and reporting systems</li> <li>▪ Electric/ Hybrid vehicles – project closeout</li> <li>▪ Energy Efficiency – finalize Market Innovations approach (Study Session)</li> <li>▪ Solar/ Wind Generation Facility Code Changes</li> <li>▪ SmartRegs – code changes</li> </ul>	<ul style="list-style-type: none"> <li>▪ CEES – adopt Energy Rating and Reporting Ordinance</li> <li>▪ Climate Commitment – policy integration with TMP and ZWMP</li> <li>▪ Energy Efficiency – launch Market Innovations competition</li> <li>▪ Zero Waste Master Plan (ZWMP) – draft</li> </ul>	<ul style="list-style-type: none"> <li>▪ Climate Commitment – policy integration with TMP and ZWMP</li> <li>▪ Energy Efficiency               <ul style="list-style-type: none"> <li>○ Upgrades in City Buildings – results of employee education and outreach (IP)</li> </ul> </li> <li>▪ SmartRegs – options for quality control of rental housing inspections</li> </ul>



initial results of Transportation Funding Task Force (Study Session)			
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**GOAL: Affordable Housing**

1 <sup>st</sup> Quarter	2 <sup>nd</sup> Quarter	3 <sup>rd</sup> Quarter	4 <sup>th</sup> Quarter
<ul style="list-style-type: none"> <li>▪ ADU/ OAU – study results (IP)</li> <li>▪ Comprehensive Housing Strategy issues - stakeholder engagement process</li> <li>▪ Density and Distribution of affordable and special needs housing - report</li> <li>▪ Inclusionary Housing Rental Policy – consideration of ordinance changes following stakeholder engagement process</li> <li>▪ Mobile Homes Parks – legislative agenda</li> </ul>	<ul style="list-style-type: none"> <li>▪ Comprehensive Housing Strategy               <ul style="list-style-type: none"> <li>○ Stakeholder engagement process</li> <li>○ Study Session</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>▪ Comprehensive Housing Strategy issues - stakeholder engagement process</li> </ul>	<ul style="list-style-type: none"> <li>▪ Comprehensive Housing Strategy issues - stakeholder engagement process</li> </ul>

**GOAL: Civic Area Plan**

1 <sup>st</sup> Quarter	2 <sup>nd</sup> Quarter	3 <sup>rd</sup> Quarter	4 <sup>th</sup> Quarter
<ul style="list-style-type: none"> <li>▪ Board and community input</li> <li>▪ Council participation in Ideas Competition</li> </ul>	<ul style="list-style-type: none"> <li>▪ Council direction on preferred option(s) and strategies</li> <li>▪ Draft plan               <ul style="list-style-type: none"> <li>○ Development</li> <li>○ Community input</li> <li>○ Study Session</li> </ul> </li> <li>▪ Municipal Space Study Final Report</li> </ul>	<ul style="list-style-type: none"> <li>▪ Boulder Civic Area vision and plan               <ul style="list-style-type: none"> <li>○ Study session</li> <li>○ Public hearings on adoption</li> </ul> </li> </ul>	



**NEXT TIER PRIORITIES**

<b>GOAL: University Hill Revitalization</b>			
<b>1<sup>st</sup> Quarter</b>	<b>2<sup>nd</sup> Quarter</b>	<b>3<sup>rd</sup> Quarter</b>	<b>4<sup>th</sup> Quarter</b>
<ul style="list-style-type: none"> <li>▪ 2013 action priorities confirmed by Council at January retreat</li> <li>▪ Hill Residential Service District – update</li> <li>▪ Innovation District - update</li> </ul>	<ul style="list-style-type: none"> <li>▪ Action on other priorities</li> <li>▪ Hill Residential Service District – 1<sup>st</sup> reading of petition</li> </ul>	<ul style="list-style-type: none"> <li>▪ Capital infrastructure improvements for the residential and commercial areas – consider during CIP process</li> </ul>	

<b>GOAL: Addressing Homelessness</b>			
<b>1<sup>st</sup> Quarter</b>	<b>2<sup>nd</sup> Quarter</b>	<b>3<sup>rd</sup> Quarter</b>	<b>4<sup>th</sup> Quarter</b>
<ul style="list-style-type: none"> <li>▪ City and Community Efforts – Denver sleeping ordinance (IP)</li> <li>▪ Housing First (1175 Lee Hill Road) – Statement of Operations (IP)</li> <li>▪ Work plan check in and priority – Council retreat</li> </ul>	<ul style="list-style-type: none"> <li>▪ Analysis of funding for homeless services and alignment with the Ten Year Plan and unmet needs</li> <li>▪ Ten Year Plan to Address Homelessness – progress update (IP)</li> </ul>	<ul style="list-style-type: none"> <li>▪ Analysis and recommendations regarding banning panhandling on street corners</li> </ul>	<ul style="list-style-type: none"> <li>▪ Ten Year Plan to Address Homelessness – progress update (IP)</li> </ul>

<b>GOAL: Boulder Junction Implementation</b>			
<b>1<sup>st</sup> Quarter</b>	<b>2<sup>nd</sup> Quarter</b>	<b>3<sup>rd</sup> Quarter</b>	<b>4<sup>th</sup> Quarter</b>
<ul style="list-style-type: none"> <li>▪ Depot Square implementation – update</li> <li>▪ MU-4 zone change - consideration</li> <li>▪ TDM District Implementation Update (IP)</li> <li>▪ Update on potential policy issues related to key public improvements and city owned site (as needed)</li> </ul>	<ul style="list-style-type: none"> <li>▪ Update on potential policy issues related to key public improvements and city owned site (as needed)</li> </ul>	<ul style="list-style-type: none"> <li>▪ Boulder Junction Access District Parking – update</li> <li>▪ TDM Access District implementation - IP</li> </ul>	



**OTHER**

<b>GOAL: Other City Goals and Work Plan Items</b>			
<b>1<sup>st</sup> Quarter</b>	<b>2<sup>nd</sup> Quarter</b>	<b>3<sup>rd</sup> Quarter</b>	<b>4<sup>th</sup> Quarter</b>
<ul style="list-style-type: none"> <li>▪ 13<sup>th</sup> Street Plaza - IP</li> <li>▪ 28<sup>th</sup> Street Multi-use Path and Bikeable Shoulders Iris to Yarmouth CEAP – potential call up</li> <li>▪ Acquisition Plan Update - OSMP</li> <li>▪ Alcohol/ Land Use Code Changes – options and recommendations</li> <li>▪ Boating on Barker Reservoir</li> <li>▪ Burke Park/ Thunderbird Lake – recommendations on lake water levels and enhancing park facilities</li> <li>▪ BVCP Area III Planning Reserve Amendments (if approved by County)</li> <li>▪ Chautauqua Guiding Principles, Next Steps –update on progress</li> <li>▪ Civic Use Task Force – update from Council members</li> <li>▪ Cultural Master Plan</li> <li>▪ Design and Construction Standards Update – consideration of minor updates</li> <li>▪ Development Review Projects:               <ul style="list-style-type: none"> <li>○ Hogan Pancost – annexation and site review</li> <li>○ Wonderland Creek Townhouses – potential call up</li> <li>○ 28<sup>th</sup> and Canyon (Eads/ Golden Buff) – potential call up</li> <li>○ Landmark Lofts II (970 28<sup>th</sup> Street) – potential call up</li> </ul> </li> <li>▪ East Arapahoe Study – potential action on limited zoning changes</li> <li>▪ Economic Sustainable Strategies –</li> </ul>	<ul style="list-style-type: none"> <li>▪ Access and Parking Management Strategies – study session</li> <li>▪ Alcohol Land Use Code Changes - action</li> <li>▪ Baseline Underpass East of Broadway CEAP – Call up</li> <li>▪ Bike Parking Ordinance Updates</li> <li>▪ Capital Improvement Bond Projects status update - IP</li> <li>▪ Capital Projects – carry over and first supplemental</li> <li>▪ Critical Facilities Ordinance – public hearing and motion</li> <li>▪ Education Excise Tax – consideration of City Manager funding recommendations</li> <li>▪ Floodplain Management including Boulder Creek Mapping, South Boulder Creek Mitigation, and Critical Facilities</li> <li>▪ Human Rights Ordinance – proposed changes regarding age discrimination</li> <li>▪ Integrated Pest Management Program Changes - IP</li> <li>▪ International Building and Energy Codes – public hearing</li> <li>▪ North Boulder Subcommunity Plan - IP</li> <li>▪ Old Hire Fire and Police Pension Plans – Study Session</li> </ul>	<ul style="list-style-type: none"> <li>▪ 2014 Budget Process</li> <li>▪ Access and Parking Management strategies (update)</li> <li>▪ Boulder Reservoir Site Management Plan – status of planning efforts and outcomes of community engagement (IP)</li> <li>▪ Capital Improvement Program – study session</li> <li>▪ Carter Lake Pipeline – thru CIP process</li> <li>▪ Contractor Licensing – proposed changes (IP)</li> <li>▪ Development Review Projects:               <ul style="list-style-type: none"> <li>○ Blue Spruce Auto (4403 Broadway) – potential call up</li> <li>○ Boulder Outlook Hotel Redevelopment (800 28<sup>th</sup> Street) – potential call up</li> <li>○ Colorado Building Parking Lot (1301 Walnut) - ordinances</li> <li>○ 1000 Alpine – potential call up</li> <li>○ 3085 Bluff – potential call up</li> <li>○ 3390 Valmont (Former Sutherlands Site) – potential call up</li> </ul> </li> <li>▪ Eco Pass- report on results of Joint Study with Boulder County on community-wide Eco Pass Feasibility</li> <li>▪ FAM Master Plan – study session</li> <li>▪ Harbeck-Bergheim House – Future Use Options (IP)</li> <li>▪ North Trail Study Area – study</li> </ul>	<ul style="list-style-type: none"> <li>▪ Access and Parking Management Strategies – update</li> <li>▪ Agriculture Plan (OSMP) – public hearing</li> <li>▪ Capital Improvement Program – adoption of CIP; 2<sup>nd</sup> budget supplemental</li> <li>▪ Contractor Licensing – consideration of proposed changes</li> <li>▪ Design and Construction Standards Update – consideration of additional changes</li> <li>▪ Development Review Projects:               <ul style="list-style-type: none"> <li>○ Village Shopping Center Hotel (26<sup>th</sup> and Canyon) – potential call up</li> </ul> </li> <li>▪ East Arapahoe Study – check in on project scope and work plan (3/4Q)</li> <li>▪ Energy Efficiency Upgrades in City Buildings – results of employee education and outreach project (IP)</li> <li>▪ FAM Master Plan – consideration of acceptance</li> <li>▪ Fourmile Canyon Creek Violet Avenue to Broadway CEAP – potential call up</li> <li>▪ Human Relations Commission Work Plan update - IP</li> <li>▪ Human Services Fund allocations - IP</li> <li>▪ Light Response Vehicle Pilot Program - IP</li> <li>▪ OSMP Natural Resources Overarching Issues – Study session</li> </ul>



<p>study session</p> <ul style="list-style-type: none"> <li>▪ Education Excise Tax Allocation of Funds – refine RFP criteria</li> <li>▪ Energy Efficiency Upgrades in City Buildings – employee education and outreach project (IP)</li> <li>▪ Floodplain Management including Boulder Creek Mapping, South Boulder Creek Mitigation, and Critical Facilities</li> <li>▪ Hazardous Materials Management IGA</li> <li>▪ Hydroelectric operations and opportunities - IP</li> <li>▪ Keep It Clean IGA</li> <li>▪ Mobile Food Vending – options for ordinance changes</li> <li>▪ Multi-hazard mitigation plan – possible consent item</li> <li>▪ Nuisance Mosquito Control Pilot Project Evaluation - IP</li> <li>▪ OSMP Overarching Issues – discussion and possible action on Voice and Sight Tag Program, Commercial Use Program, Pilot Parking Permit Program; IP on timeline and process for evaluation of remaining topics</li> <li>▪ Police Department Master Plan – Study Session</li> <li>▪ State of the Court Presentation</li> <li>▪ Sustainable Streets &amp; Centers – update on proposed scope options, next steps and integration with TMP, East Arapahoe Area Plan and proposed Economic Sustainability Strategy</li> <li>▪ Transportation Funding (SS)</li> <li>▪ TMP Update – additional direction</li> </ul>	<ul style="list-style-type: none"> <li>▪ OSMP natural resources – overarching policy issues <ul style="list-style-type: none"> <li>○ Temporal Regulations</li> <li>○ Penalties for violations</li> <li>○ Multi-modal access and parking opportunities</li> <li>○ Analysis of trail network and distribution of activities</li> </ul> </li> <li>▪ Parks and Recreation Master Plan</li> <li>▪ Pearl Street Mall Code Changes</li> <li>▪ Police Department Master Plan</li> <li>▪ Randolph Center Condominium Declaration</li> <li>▪ Recirculation of wastewater – CU Williams Village North (IP if necessary)</li> <li>▪ Skunk Creek, Bluebell Creek and King’s Gulch Flood Mapping Update – public hearing and motion</li> <li>▪ Smoking Ban on Pearl Street Mall - IP</li> <li>▪ Snow and Ice Control Evaluation – study session</li> <li>▪ Transportation Funding – study session</li> <li>▪ TMP Update – additional direction</li> <li>▪ Twomile and Upper Goose Creek Flood Mapping Update – public hearing and motion</li> <li>▪ Water budgets – commercial, industrial and institutional – Council direction</li> <li>▪ Water supply status – IP</li> </ul>	<p>session or dinner discussion</p> <ul style="list-style-type: none"> <li>▪ Old Hire Fire and Police Pension Plans – possible discussion during budget process</li> <li>▪ Parks and Recreation Master Plan</li> <li>▪ Regional Trail Connections (OSMP) – IP</li> <li>▪ South Boulder Creek Flood Mitigation Study – public hearing and motion</li> <li>▪ Transportation Demand Management Toolkit - IP</li> <li>▪ Valmont Butte Future Use Discussions – study session</li> <li>▪ Water Conservation Futures Study</li> <li>▪ Youth Opportunities Funding allocations - IP</li> </ul>	<p>on remaining topics</p> <ul style="list-style-type: none"> <li>▪ Urban Wildlife – Consideration of Wildlife Protection Ordinance</li> <li>▪ Water budgets – commercial, industrial and institutional – consideration of changes</li> </ul>
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<ul style="list-style-type: none"> <li>▪ US36 Bikeway Maintenance – Enhancements IGA (tentative based on if extra community investments are desired)</li> <li>▪ Urban Wildlife – Black Bear Education and Enforcement pilot program update</li> <li>▪ Woodland Creek Diagonal to Winding Trail CEAP – potential call up</li> <li>▪ Zero Waste Master Plan Update</li> </ul>			
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**KEY**

ADU	Accessory Dwelling Units
BVCP	Boulder Valley Comprehensive Plan
CEAP	Community and Environmental Assessment Process
CIP	Capital Improvement Program
CU	University of Colorado
DUHMD/PS	Downtown and University Hill Management District/ Parking Services (City Division)
FAM	Facility and Asset Management
ICC	International Code Council
IGA	Intergovernmental Agreement
IP	Information Packet
OAU	Owner Accessory Units
OSMP	Open Space/Mountain Parks Department
RFQ	Request for Qualifications
RFP	Request for Proposals
TDM	Transportation Demand Management
TMP	Transportation Master Plan
ZWMP	Zero Waste Master Plan



**CITY COUNCIL  
ACCOMPLISHMENTS – 1<sup>ST</sup> AND 2<sup>ND</sup> QUARTER 2012**

**TOP PRIORITIES:**

**GOAL: BOULDER’S ENERGY FUTURE**

**FIRST AND SECOND QUARTER  
2012 ACCOMPLISHMENTS**

- Hiring of Executive Director for Energy Strategy and Electric Utility Development
- Retention of FERC and acquisition legal counsel
- Initial work in developing appraisal of distribution system and preparing legal strategy
- Initial work on Phase 1 of a new Energy Action Plan, including demand side programs and renewables modeling
- Active participation at the PUC to advance Boulder’s energy goals and protect community interests
- Boulder Canyon Hydroelectric Facility Agreement: City Council authorized the dedication of easements to Public Service Company of Colorado to facilitate upgrades to the city’s Boulder Canyon Hydroelectric Facility.

**GOAL: CLIMATE ACTION PLAN**

**FIRST AND SECOND QUARTER  
2012 ACCOMPLISHMENTS**

- Third party review and evaluation of CAP tax funded programs to date
- Preparation of November 2012 CAP tax ballot options for Council consideration
- Initial steps to develop and refine a new Climate Action Framework consisting a renewed climate action commitment, five-year goals, annual targets, integration with appropriate master plans and city operations, and new reporting tools
- Initial work to identify priorities for the next generation of energy efficiency programs (as part of Phase 1 of the Energy Action Plan)
- Development of Commercial Energy Efficiency Strategy approach and stakeholder process (to be integrated as part of Phase 1 of the Energy Action Plan)
- Continued delivery of CAP programs and services to achieve annual targets (EnergySmart, Ten for Change, SmartRegs compliance, etc.)
- Energy Efficiency Upgrades in City Facilities - (a) Energy Performance Contract (EPC) – Phase III; (b) Lease purchase financing for energy conservation measures; and (c) Energy improvements, lease amendments, and payments. - Implemented the third phase of Energy Performance Contracts (EPC) for city facilities, including the installation of another 347 kilowatts of solar photovoltaic



at the Municipal Service Center buildings, Fleet Services, OSMP Annex and The Dairy Center for the Arts.

- Energy Efficiency Upgrades in City Facilities – Employee Education and Outreach Project (Information Packet) - A staff team participated in three workshops with McKinstry, the city’s Energy Performance Contractor, to help develop a new PowerED energy education and outreach program for employees. Program development will continue with other city staff focus groups through the end of December 2012.

**GOAL: AFFORDABLE HOUSING**

**FIRST AND SECOND QUARTER  
2012 ACCOMPLISHMENTS**

- Added 12 new permanently affordable homes to inventory
- Affordable housing agreement for Gunbarrel Town Center
- Affordable Housing Program Work plan - Council Consideration and Direction; new initiatives identified
- Analysis completed of affordable housing distribution
- Completed funding of major renovations to improve housing quality and economic sustainability of three BHP properties
- Development of voluntary affordable housing agreement for Depot Square project
- Inclusionary Housing Rental Policies – Council Consideration and Direction
- Thistle Community Housing completing fire sprinklers in all of its properties

**GOAL: CIVIC CENTER MASTER PLAN**

**FIRST AND SECOND QUARTER  
2012 ACCOMPLISHMENTS**

- Development of interdepartmental project team and approach; project goals and objectives; and public engagement strategy (reviewed at joint Planning Board / City Council study session in April)
- Detailed design of community visioning process and articulation of key project assumptions (reviewed with Council at June 12 study session)
- Preparation of baseline materials and launch of public engagement in July.
- The Municipal Space Study contract was awarded to StudioTerra on March 23. FAM and the consultants are interviewing city departments and conducting research on industry trends and standards for office space. Preliminary results of the space study, as it relates to the Civic Center Master Plan, will be presented at the July 31 study session.



## **NEXT TIER PRIORITIES:**

### **GOAL: UNIVERSITY HILL REVITALIZATION**

#### **FIRST AND SECOND QUARTER 2012 ACCOMPLISHMENTS**

- Zoning change: Business Main Street (BMS) boundary to coincide with the University Hill General Improvement District boundary; rezoning of UHGID lots to BMS zoning (approved by Planning Board; scheduled for Council consideration in August)
- Continued work of the Hill Ownership Group to develop a comprehensive revitalization strategy.
- In coordination with a volunteer, stakeholder committee completed a proposal for a Residential Service District which includes: boundaries, scope of services, proposed budget, proposed governance structure, agreements for financial participation by tax-exempt sororities and fraternities, and a timeline for a 2013 Petition and Election process.
- Landmarking of Flatirons Theater building (and associated building renovation)
- 955 Broadway (Acacia Fraternity site redevelopment)

### **GOAL: ADDRESSING HOMELESSNESS**

#### **FIRST AND SECOND QUARTER 2012 ACCOMPLISHMENTS**

- Council Consideration and Direction on: 1175 Lee Hill Project; added 31 permanent housing units for chronically homeless, disabled adults
- Continued Homeless Service Provider Coordination Project to develop action plans for case management, outreach and service coordination
- Continued implementation of Ten year Plan to Address Homelessness

### **GOAL: BOULDER JUNCTION IMPLEMENTATION**

#### **FIRST AND SECOND QUARTER 2012 ACCOMPLISHMENTS**

- Developed and implemented a funding strategy to finance the acquisition of 100 parking spaces by the Boulder Junction Access District – Parking (BJAD-P) in the Depot Square parking garage including a Lease/Purchase Agreement between BJAD-P and the developer, and a City of Boulder/BJAD-P Cooperation Agreement
- Developed a strategy to manage parking in the parking structure through technology and a management agreement among the



users. The arrangement provides for parking spaces to be paid, unbundled, and shared in a manner to meet the needs of the various users of Depot Square (hotel, residential, RTD) and general parking in BJAD-P spaces. Agreement was reached with RTD regarding short term and long term parking management strategies given their current legislative mandate.

- Finalized the ownership structure for five different owners to coordinate management of their units and common areas through a Condominium Declaration for the Depot Square project
- Finalized a renovation agreement and lease consistent with guiding principles with Pedersen Development Corporation for the Depot
- Finalized legal agreements for joint public/private development of Depot Square (RTD facility, shared parking, affordable housing, hotel, public space and rehabilitation of historic depot
- Approved changes to the Transportation Network Plan in support of the Transit Village Area Plan (TVAP)
- Revised Street Design for Pearl Parkway and Connections Plan Revisions (adopted by Council January 17)
- Consistent with the TVAP connections plan and along with private redevelopment, a number of capital improvements are underway, including the installation of underground power lines, preparations for installing a traffic signal at Junction Place and Pearl Parkway, and portions of the Pearl Parkway multi-way boulevard
- Consistent with the TVAP connections plan, design work continues for the bridge over Goose Creek and the multi-use path on the north side of Pearl Parkway between 30<sup>th</sup> Street and Foothills Parkway
- Received a Federal Hazard Elimination Program grant award through the Colorado Department of Transportation (CDOT) that will allow installation of a traffic signal at 29<sup>th</sup> Street and Valmont Road, improving safety and implementing improvements identified in the Transit Village Area Plan (TVAP) (project will begin in 2014)
- Completion of engineering and building construction plan review for a 319 unit residential development at 3100 Pearl and the RTD Depot Square transit-oriented development



## GOAL: OTHER CITY GOALS AND WORK PLAN ITEMS

### FIRST AND SECOND QUARTER 2012 ACCOMPLISHMENTS

#### ***CAPITAL ITEMS***

- Anemone Trails (new) – design work completed
- Arapahoe Avenue (Folsom to 30th) - Multimodal Improvements Project Completed construction on the Arapahoe Avenue multi-use path project. The remaining street resurfacing and landscaping work will be completed in 2012.
- Boulder Creek and South Boulder Creek – restoration of grassland and riparian areas continued
- Broadway (Euclid to 18th) - Transportation Improvements Project - Made progress on the Broadway (Euclid to 18th) Transportation Improvements Project. 16<sup>th</sup> Street opened the first week of May and the Broadway underpass and the four lanes on Broadway (two in each direction) are scheduled for completion by early July.
- Broke ground in January for a new multi-use path on the south side of Baseline, connecting U.S. 36 and the Bear Creek Underpass, including a pedestrian crossing for Baseline Road at Canyon Creek. Completion of the multi-use path on the west end is underway through a redevelopment project.
- Completed a new sidewalk along Gillaspie Drive, connecting Greenbriar Boulevard and Juilliard Street connecting to Fairview High School
- Completed the course bunker renovation/playability project at Flatirons Golf Course by installing 19 new sand bunkers
- Continued work at Valmont City Park, including additional construction at Valmont Bike Park; outreach and design for Valmont Dog Park; and design and construction of the interim disc golf course
- Facility ADA Compliance - An Americans with Disabilities Act (ADA) consultant completed comprehensive ADA assessments for the Park Central and Municipal buildings. Costs for the recommendations are being identified and prioritized, with other buildings planned for assessment.
- Green Bear Trail Re-route – work in progress with one section completed and opened to public
- Gregory Canyon Trailhead Site Plan – initial site plan design work began
- Homestead Trail Re-route – work in progress with one section completed and opened to public
- Library Facility Upgrades and Enhancements (New Children’s Library and New Teen Space): The selection of a design firm is underway
- Linden Avenue Sidewalk Project (Safe Routes to School) - Completed a Safe Routes to School Project, providing a sidewalk on the north side of Linden Avenue between Fourth Street and Broadway.
- New Wildland Fire Facilities - Responses to the request for qualifications (RFQ) for facility designs were received on May 11. Requests for proposals (RFP) to be sent in early June
- Organic farming – agricultural contract written for 47 acres



- Replaced traffic signal incandescent lamps with sustainable, energy-saving light-emitting diode (LED) lamps
- Sanitas Stone Hut Repair – hut was reinforced and stonework repaired
- South Boulder Creek West Trailhead – Parking areas for cars and horse trailers completed and open to public; working through permit process for outhouse and kiosk installations; interpretive signs in production
- South Boulder Recreation Center - The contaminated sub floors from the gymnasium, racquetball court, and Pilates room have been removed and are expected to be replaced with new wood floors by early June 2012.
- Street repair expanded efforts – began the first of three years

### ***OTHER SIGNIFICANT ACTIONS<sup>1</sup>***

- Boulder B-cycle station at the North Boulder Recreation Center sponsored
- Boulder Community Hospital Expansion Rezoning
- BVCP: Area II study results and potential next steps (IP to City Council in July)
- BVCP Comprehensive Rezoning (scheduled for council consideration in August)
- BVCP 2010 Major Update: planning reserve policy changes (study session discussion with Council on May 29; Council and County Commissioner dinner discussion on June 14)
- Boulder Reservoir Master Plan completed
- Boulder Valley School District Faculty and Staff Eco Pass Program Expansion - Continued partnership with the Boulder Valley School District (BVSD) to expand the BVSD faculty and staff Eco Pass program.
- Chautauqua Stewardship Framework: Draft and Next Steps
- City Website Redesign Kickoff - Kicked off redesign with Vision Internet and the City of Arvada. Gathered a list of key stakeholders and surveyed them regarding elements the new website should contain.
- Code enforcement - reallocation of resources to the Boulder Police Department was fully implemented to ensure efficient and effective service delivery
- Community and Environmental Assessment Process (CEAP) for flood mitigation and transportation improvements along Fourmile Canyon Creek, near Crest View Elementary School completed, including a City Council call-up opportunity.
- Compatible Development implementation - annual report to Council
- Congregate Care code changes (pending further consideration based on Council direction)
- Constituent Relationship Management (CRM) procurement effort - Designed and implemented a staff engagement and procurement initiative to implement a new CRM application resulting in the unanimous selection of Government Outreach. Vendor contract negotiations are currently underway. This initiative is designed to significantly improve our customers' ability to request, track and ultimately receive more timely and effective services while providing staff with automated tools to better



manage these requests.

- Disposable Bag Reduction Ordinance: research and options presented to Council on May 15; work on nexus study underway
- Draft Fire-Rescue Master Plan completed and approved by Planning Board.
- Economic Sustainability Strategy: phase one study of primary employer space needs underway; presentation of results to Council scheduled for August
- Elks neighborhood park planning, outreach and design continued with construction and completion in 2013
- Family Resource Center opened at Manhattan Middle School in partnership with Boulder County Housing and Human Services
- FasTracks' Northwest Rail Plan - Approved guiding principles for developing and designing a hybrid approach to FasTracks' Northwest Rail Plan.
- Fire Master Plan – Council feedback on strategies (April 3, 2012); Planning Board recommendation for acceptance (May 17, 2012); Scheduled for Council consideration (June 19, 2012)
- Heather wood Trail Intergovernmental Agreement (IGA) - City Council authorized the signing of an intergovernmental agreement (IGA) with Boulder County related to the maintenance of a trail that crosses the Wastewater Treatment Facility property.
- Integrated Pest Management Policy Revision and Program Direction (Council provided direction on May 1)
- Landmarking of First Christian Church building (950 28<sup>th</sup> Street)
- Locomotive #30 narrow gauge historic cosmetic restoration completed
- Mesa Memorial Park design and development initiated
- Mosquito control annual report (Completed report on the IPM web site – link will be provided to council with first weekly mosquito report in June)
- Named number 3 on list of best cities for bicycling by *Bicycling Magazine*, in part due to the Valmont Bike Park and new path connections made possible by the capital improvement bond
- New Transportation Safety Ordinances - Approved ordinance changes to improve transportation safety in the city and initiated education and enforcement efforts to support the ordinance changes
- Organic turf and landscape bed program at six park locations launched
- Received a Safe Routes to School Grant to install a traffic signal at South Boulder Road and Manhattan Drive to create a safe crossing for middle school students taking transit, riding, or walking to and from school.
- RH-2 Zone District Changes (scheduled for council consideration in August)
- *Safe Streets Boulder* report published in February.
- SmartRegs - Continued the successful implementation of SmartRegs and the pilot program for rental housing licensing enforcement. The backlog of rental license compliance cases is almost entirely eliminated.
- Transportation Report on Progress, *Transportation to Sustain a Community* published in February.
- Valmont Butte – VCUP implementation commenced; excavation work began on April 4 with both the tribe-designated native cultural monitor and the city's archaeologist consultant present.



▪ Veterans and active duty military personnel recreation pass program developed

**Key:**

ADA = Americans with Disabilities Act
BHP = Boulder Housing Partners
BVSD = Boulder Valley School District
BMS = Business Main Street
CAP = Climate Action Plan
CDOT = Colorado Department of Transportation
EPC = Energy Performance Contract
EET = Education Excise Tax
FAM = Facilities and Asset Management (City Division)
FERC = Federal Energy Regulatory Commission
IGA = Inter-governmental Agreement
IP = Information Packet
OSMP = Open Space/ Mountain Parks Department
PUC = Colorado Public Utilities Commission
RFP = Request for Proposals
RFQ = Request for Qualifications
RTD = Regional Transportation District
TVAP = Transit Village Area Plan
UHGID = University Hill General Improvement District
VCUP = Colorado Voluntary Cleanup Program

## **COUNCIL MEMBERS**

Matthew Appelbaum	Mayor
Lisa Morzel	Mayor Pro Tem
Suzy Ageton	Council Member
KC Becker	Council Member
Macon Cowles	Council Member
Suzanne Jones	Council Member
George Karakehian	Council Member
Tim Plass	Council Member
Ken Wilson	Council Member

## **COUNCIL EMPLOYEES**

Thomas A. Carr	City Attorney
Jane S. Brautigam	City Manager
Linda P. Cooke	Municipal Judge

## **KEY STAFF**

Bob Eichem	Chief Financial Officer
Alisa D. Lewis	City Clerk
Patrick von Keyserling	Communications Director
David Driskell	Community Planning + Sustainability - Executive Director
Paul J. Fetherston	Deputy City Manager
Molly Winter	Downtown, University Hill Management & Parking Services Director
Heather Bailey	Energy Strategy and Electric Utility Development Executive Director
Larry Donner	Fire Chief
Mary Ann Weideman	Housing, Assistant City Manager for Human Resources (Acting) Director
Karen Rahn	Human Services Director
Don Ingle	Information Technology Director
Eileen Gomez	Labor Relations Director
Valerie Maginnis	Library and Arts Director
Lynne C. Reynolds	Municipal Court Administrator
Michael Patton	Open Space and Mountain Parks Director
Kirk Kincannon	Parks and Recreation Director
Mark Beckner	Police Chief
Maureen Rait	Public Works - Executive Director
Tracy Winfree	Transportation Director
Jeff Arthur	Utilities Director

## 2013 City Council Committee Assignments

### INTERGOVERNMENTAL ORGANIZATIONS

Beyond the Fences Coalition	Morzel, Plass
Boulder County Consortium of Cities	Karakehian, Wilson (alt)
Colorado Municipal League (CML) – Policy Committee	Jones, Appelbaum (Castillo – staff alternate)
Denver Regional Council of Governments (DRCOG)	Becker, Jones (Alternate)
Housing Authority (Boulder Housing Partners)	Ageton
Metro Mayors Caucus	Appelbaum
National League of Cities (NLC)	Appelbaum
Resource Conservation Advisory Board	Plass, Morzel (at large seat)
Rocky Flats Stewardship	Morzel, Plass (1 <sup>st</sup> alternate), Castillo (2 <sup>nd</sup> alternate)
University of Colorado (CU) / City Oversight	Wilson, Jones, Karakehian
US36 Mayors and Commission Coalition	Appelbaum, Ageton (alternate)
US36 Commuting Solutions	Ageton, Karakehian (alternate)
Urban Drainage and Flood Control District	Morzel

### LOCAL ORGANIZATIONS

Boulder Museum of Contemporary Art (BMoCA)	Cowles, Becker (alternate)
Boulder Convention and Visitors Bureau	Becker, Plass (alternate)
Dairy Center for the Arts	Karakehian
Downtown Business Improvement District Board	Plass, Jones

### INTERNAL CITY COMMITTEES

Audit Committee	Morzel, Becker, Cowles
Boulder Urban Renewal Authority (BURA) Mayoral Appointment	Becker (appointed through 2015)
Charter Committee	Morzel, Cowles, Ageton, Karakehian
Civic Use Pad/ 9 <sup>th</sup> and Canyon	Morzel, Jones, Becker
Council Budget Action Plan Committee	Ageton, Becker, Plass
Evaluation Committee	Karakehian, Morzel
Legislative Committee	Ageton, Karakehian, Wilson, Jones

### SISTER CITY REPRESENTATIVES

Jalapa, Nicaragua	Jones
Kisumu, Kenya	Morzel
Llaza, Tibet	Ageton
Dushanbe, Tajikistan	Karakehian
Yamagata, Japan	Wilson
Mante, Mexico	Plass
Yateras, Cuba	Cowles
Sister City Sub-Committee	Morzel, Cowles