CITY OF CENTRAL, COLORADO
NOTICE OF A SPECIAL MEETING of the CITY COUNCIL to be held on
Tuesday, October 10, 2017 @ 7:00 p.m.
141 Nevada Street, Central City, Colorado

AGENDA

The City Council meeting packets are prepared several days prior to the meetings and available for public inspection at City Hall during normal business hours the Monday prior to the meeting. This information is reviewed and studied by the City Council members, eliminating lengthy discussions to gain basic understanding. Timely action and short discussion on agenda items does not reflect lack of thought or analysis. Agendas are posted on the City’s website, the City Hall bulletin board and at the Post Office the Friday prior to the Council meeting.

7:00pm Council Meeting

1. Call to Order.

2. Roll Call. Mayor Kathryn Heider
   Mayor Pro-Tem Shirley Voorhies
   Council members Judy Laratta
                   Jeff Aiken
                   Mary Bell

3. Pledge of Allegiance

4. Additions and/or Amendments to the Agenda.

5. Conflict of Interest.

6. Consent Agenda: All matters listed under Item 6, Consent Agenda, are considered to be routine business matters by the Council and will be enacted with a single motion and a single vote. There will be no separate discussion of these items. If discussion is deemed necessary, that item should be removed from the Consent Agenda and considered separately.

   Regular Bill lists through October 4; and
   City Council minutes: September 19, 2017

PUBLIC FORUM/AUDIENCE PARTICIPATION — (public comment on items on the agenda not including Public Hearing items): the City Council welcomes you here and thanks you for your time and concerns. If you wish to address the City Council, this is the time set on the agenda for you to do so. When you are recognized, please step to the podium, state your name and address then address the City Council. Your comments should be limited to three (3) minutes per speaker. The City Council may not respond to your comments this evening, rather they may take your comments and suggestions under advisement and your questions may be directed to the City Manager for follow-up. Thank you.

ACTION ITEMS: NEW BUSINESS —

7. Appointment to fill vacancy for Main Street Commission – Adam Mascn; Shelby Wood

8. Presentation of 2018 Proposed Budget (Miera)

9. Ordinance No. 17-09: An Ordinance of the City Council of the City of Central, Colorado amending Chapter 16 of the Municipal Code, specifically certain sections of the Land Development Code to implement new marijuana land use regulations, and repealing and reenacting Article VII and Article IX of Chapter 6 of the Municipal Code pertaining to medical marijuana licenses and retail marijuana licenses. (Rears)

REPORTS –

11. Staff updates –
   a. Gilpin County Donation
   b. CCFD Brush Truck

COUNCIL COMMENTS – limited to 5 minutes each member.

PUBLIC FORUM/AUDIENCE PARTICIPATION – for non-action items not Action or Public Hearing items on this agenda (same rules apply as outlined in the earlier Public Forum section).

EXECUTIVE SESSION – Pursuant to C.R.S. Section 24-6-402(4)(a) and -(4)(e) to discuss the potential lease of a real property interest held by the City, to develop strategies for negotiation and instruct negotiators regarding the potential lease of City-owned property; and Pursuant to C.R.S. §§ 24-6-402(4)(b) to receive legal advice on specific legal questions relating to draft findings set forth in the state audit performed pursuant to Senate Bill 16-073 related to the City’s utilization of State Historical Fund distributions. Pursuant to C.R.S. §§ 24-6-402(4)(b) and -402(4)(e), to discuss specific legal questions and to instruct negotiators concerning pending water rights cases and matters, including Case No. 16CW3149.

ADJOURN. Next Council meeting November 7, 2017.

Posted 10/5/2017

Please call Reba Bechtel, City Clerk at 303-582-5251 at least 48 hours prior to the Council meeting if you believe you will need special assistance or any reasonable accommodation in order to be in attendance at or participate in any such meeting.
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Grand Totals: 47,103.79
CITY OF CENTRAL
CITY COUNCIL MEETING
September 19, 2017

CALL TO ORDER
A regular meeting of the City Council for the City of Central was called to order by Mayor Heider at 7:15 p.m., in City Hall on September 19, 2017.

ROLL CALL
Present: Mayor Heider
Mayor pro tem Voorhies
Alderman Laratta
Alderman Aiken
Alderman Bell

Absent: None

Staff Present: City Manager Miera
Attorney McAskin
City Clerk Bechtel
Finance Director Adame
Community Development Director Rears
Public Works Director Hoover
Utilities Director Nelson
Fire Chief Allen
Captain Ihme GCSO

The Pledge of Allegiance was recited by all present.

ADDITIONS AND/OR AMENDMENTS TO THE AGENDA
The agenda was approved as presented.

CONFLICTS OF INTEREST
No Council Member disclosed a conflict regarding any item on the agenda.

CONSENT AGENDA
Mayor pro tem Voorhies moved to remove HR 17-14 TBD East 1st High Street from the consent agenda. Mayor Heider seconded, and without discussion, the motion carried 4 votes to 1 with Alderman Bell voting no.

Mayor pro tem Voorhies moved to approve the consent agenda containing the regular bill lists through September 13; the City Council minutes for the meeting on September 5, 2017; and ratify HPC approvals: HR 17-13 400 Lawrence Street; and HR 17-15 110 Lawrence Street. Alderman Laratta seconded, and without discussion, the motion carried unanimously.
PUBLICFORUM/AUDIENCEPARTICIPATION
No one requested time to address the Council.

ACTION ITEMS: NEW BUSINESS
HR 17-14 TBD East 1st High Street
Mayor pro tem Voorhies questioned the design being an exact copy of a mining building.
HPO/CDD Rears explained that one of the classifications in the Design Guidelines is Mining Character so this outbuilding is designed with that in mind. Mayor Heider questioned: is the plan a replica of an existing structure; don’t we want new construction to be distinguishable from existing; and if the metal siding described as haphazard is allowed. HPO/CDD Rears responded that this design has elements of other buildings but is not an exact copy and that the guidelines want new construction to mimic and blend using materials that can be found on existing structures.

Mayor pro tem Voorhies moved to ratify HPC approval of HR 17-14 TBD East 1st High Street. Alderman Laratta seconded, and without discussion, the motion carried 3 votes to 2 with Mayor Heider and Mayor pro tem Voorhies voting no.

2016 Audit Presentation
Finance Director Adame reported that in April of this year, Swanhorst & Company LLC performed an audit of the City’s financial procedures, practices, and financial statements for the year ending December 31, 2016. Over the course of the past few months staff and Swanhorst & Company have worked together to draft and prepare the finalized 2016 Audited Financial Statements. The financial statements illustrate the financial activities of the City over the course of 2016 and present the City’s financial information, in whole and as separate units, as of December 31, 2016. State law requires the City to submit the audited financial statements to the Colorado Department of Local Affairs. It is customary for the auditor to review the statements with the Council and for the Council to accept the financial statements as presented in the form of a motion. Also attached is the Management Discussion & Analysis as it offers a narrative overview and analysis of the financial statements and financial activities of the City for fiscal year.

Wendy Swanhorst, Swanhorst & Company, added that this audit was complete in May and have waited until the BID audit was received to present to Council. The City has worked with a consultant to help with the segregation of duties. The Volunteer Fire Department Pension Fund has been funded.

Alderman Aiken moved to accept the 2016 Audited Financial Statements. Mayor pro tem Voorhies seconded, and without discussion, the motion carried unanimously.

Resolution No. 17-24: A resolution of the City of Central Water Fund Enterprise approving a loan agreement between the Colorado Water Resources and Power Development Authority and the City of Central, Colorado, acting by and through it's Water Fund Enterprise (Drinking Water Revolving Fund Design and Engineering Loan Agreement – 100% Principal Forgiveness) in the principal amount of not to exceed $62,505 for the purpose of financing the Design and
Engineering costs related to the City’s replacement of raw water intakes at certain City diversion structures; authorizing the form and execution of a loan agreement and a governmental agency bond evidencing the loan; and prescribing other details in connection therewith.

Attorney McAskin explained that this resolution approves a loan agreement between the City of Central, acting through its Water Fund Enterprise (“Enterprise”), and the Colorado Water Resources and Power Development Authority (“CWRPDA”). The resolution authorizes the execution of the loan agreement and a governmental agency bond to further secure the loan.

The Enterprise, comprised of the members of City Council, is a government-owned business created pursuant to Title 37, Article 45.1 of the Colorado Revised Statutes. The Enterprise has determined that there is a need to undertake certain engineering and design work associated with the replacement and repair of raw water intakes at the Miner’s Gulch Diversion Structure, Peck’s Gulch Diversion Structure, and the Broomfield Gulch Diversion Structure (the “Project”). The design and engineering work will be completed by W2 Engineers, LLC. The Project’s estimated completion date is January 31, 2018.

City staff has determined that it is in the best interests of the Enterprise to enter into a loan agreement with CWRPDA to finance the Project. Under the loan agreement, the CWRPDA will loan the Enterprise an amount not to exceed Sixty-Two Thousand Five Hundred Five Dollars and No Cents ($62,505.00), and the loan is structured as a one hundred percent (100%) principal forgiveness loan. Presently, it is anticipated that the loan will close on October 3, 2017.

Mayor pro tem Voorhies moved to approve Resolution No. 17-24: A resolution of the City of Central Water Fund Enterprise approving a loan agreement between the Colorado Water Resources and Power Development Authority and the City of Central, Colorado, acting by and through it’s Water Fund Enterprise (Drinking Water Revolving Fund Design and Engineering Loan Agreement – 100% Principal Forgiveness) in the principal amount of not to exceed $62,505 for the purpose of financing the Design and Engineering costs related to the City’s replacement of raw water intakes at certain City diversion structures; authorizing the form and execution of a loan agreement and a governmental agency bond evidencing the loan; and prescribing other details in connection therewith. Alderman Laratta seconded, and without discussion, the motion carried unanimously.

Resolution No. 17-25: A resolution of the City Council of the City of Central, Colorado approving Amendment No. 2 to Professional Services Agreement with W2 Engineers, LLC for On-Call Water Engineering Services.

Attorney McAskin explained that this resolution approves Amendment No. 2 to the City’s Professional Services Agreement (“PSA”) with W2 Engineers, LLC. The City entered into the PSA on May 7, 2014 for on-call water engineering services to the City. The current annual not to exceed cap on Consultant billings is $25,000.00. Since the Consultant will be undertaking certain design and engineering services related to new source water diversion structures at Miner’s Gulch, Peck’s Gulch, and Broomfield Gulch, the estimated fee to complete the additional work at these three diversion structures is $47,505.00. The work will be completed in accordance with the requirements of the Colorado Department of Public Health and Environment (CDPHE) and Colorado Division of Water Resources (DWR), and replacement stipulations.
mandated by the United States Forest Service (USFS). The City is requiring that the additional work be completed by January 31, 2018. Given that the current limit on annual Consultant billings is $25,000, the PSA must be amended to increase the limit on annual billings to accommodate the additional design and engineering work to be completed by the Consultant.

Consultant’s additional work will be paid for with proceeds from the Drinking Water Revolving Fund Design and Engineering Loan Agreement approved by Resolution No. 17-24. The Loan Agreement between the Enterprise and the Colorado Water Resources and Power Development Authority is structured as a 100% principal forgiveness loan, meaning that upon the closing of the loan contemplated in the Loan Agreement, the entire principal balance of the loan will be forgiven. There is a not to exceed of $75,000.

Alderman Laratta moved to approve Resolution No. 17-25: A resolution of the City Council of the City of Central, Colorado approving Amendment No. 2 to Professional Services Agreement with W2 Engineers, LLC for On-Call Water Engineering Services. Mayor pro tem Voorhies seconded, and without discussion, the motion carried unanimously.

Resolution No. 17-26: A resolution of the City Council of the City of Central, Colorado awarding a bid for the Central City 2017 Asphalt Paving Projects (RFP 2017-6) and authorizing the City Manager to execute a construction contract with The Perfect Patch Asphalt Co.
Public Works Director Hoover explained that on August 21, 2017 the City solicited proposals for the Central City 2017 Asphalt Paving Projects (RFP No. 2017-26) in accordance with Colorado law by posting a request for proposals on the Rocky Mountain Bid Net System. This resolution approves a contract with The Perfect Patch Asphalt Co.

Staff has evaluated the unit price bids received from the two firms that submitted proposals by the applicable due date together with the specific criteria set forth in the RFP to determine the responsible and responsive bidder for the Project. For an additional $29,587.04 the project will complete the road down to the City limits. There is a not to exceed amount of $73,327.00. The anticipated start date for this project is September 20, 2017 with an anticipated end date of October 16, 2017.

Mayor pro tem Voorhies moved to approve Resolution No. 17-26: A resolution of the City Council of the City of Central, Colorado awarding a bid for the Central City 2017 Asphalt Paving Projects (RFP 2017-6) and authorizing the City Manager to execute a construction contract with The Perfect Patch Asphalt Co. including the change order for $29,578.04. Alderman Aiken seconded, and without discussion, the motion carried unanimously.

Acceptance of 2018 CIRSA Property/Casualty & WC Quotes
Finance Director Adame explained that the City has received CIRSA’s Preliminary Contribution Quotes for 2018 Property/Casualty and Workers’ Compensation Insurance coverage. In order for CIRSA to finalize the Quotes it is necessary for City Council to formally accept the quotes. By doing so, Council is choosing the City’s insurance carrier for Property/Casualty and Workers’ Compensation for 2018. CIRSA requires acceptance of their Preliminary Quotations by September 30, 2017.
**Property/Casualty** — The Preliminary 2018 Quote is $74,894. This is a decrease of $15,046 from 2017’s accepted premium amount. This quote reflects a reduction in fleet which occurred in 2017 when the City transferred 5 police vehicle units to the Gilpin County Sheriff’s Office.

**Workers’ Compensation** — The Preliminary 2018 quote is $24,823. This is a decrease of $12,963 from 2017’s accepted premium amount. This quote is reflective of a decrease in the number of City employees (police officers) which in turn decreased the overall quote.

In May, the Finance Director prepares and submits to CIRSA information regarding the City’s plans for personnel costs, property and equipment in the following year. CIRSA then uses this information along with the City’s loss and claims history to prepare quotes for Property/Casualty and Workers’ Compensation insurance coverage. Quotes are then submitted to City Council for formal approval. Once accepted by City Council, staff executes the Acceptance Form and returns it to CIRSA thereby committing to the quoted coverage for the following year.

The City did not request bids from other insurance agencies for 2017 because CIRSA is a preferred insurance provider for municipalities based on the advantages of participating in a pooled insurance group where all losses and gains are spread equally among all members. This method of pooling gains and losses generally equates to better pricing.

Mayor *pro tem* Voorhies moved to formally accept the Property/Casualty and Workers’ Compensation Preliminary Contribution Quotations for 2018. Alderman Laratta seconded, and without discussion, the motion carried unanimously.

**REPORTS**

Mayor *pro tem* Voorhies questioned when Channel 20 will be up. CDD Rears responded that the IT contractor and cable provider are working on a fix.

Manager Miera reviewed the Leavitt Street bus parking proposal by the CCBID and the bus companies to pave Leavitt. Any vehicle idling anywhere in the City is limited to 5 minutes.

**COUNCIL COMMENTS**

Mayor *pro tem* Voorhies reported on the following topics:

1) that GMV apartment residents are complaining of speeding when school kids are boarding the bus;

2) Hot Rod Hill Climb was a good event; and

3) changes to the code that have been reviewed by HPC and PC will be coming before Council as an ordinance with a public hearing.

**PUBLIC FORUM/AUDIENCE PARTICIPATION**

Jackie Mitchell, 330 Bates Hill, expressed concern regarding proposed changes to the sign code to allow EMC’s and encouraged careful review on size and location as it may impact safety.

Joe Behm, CCBID, noted that the previous sign code had a category for *Major Construction Signs* and this became a problem recently when the banner was changed out on the parking...
garage since this sign category is not allowed in the current sign code. There is a significant impact to businesses here from the Black Hawk Gregory Street construction project.

**EXECUTIVE SESSION**
At 8:27 p.m., Mayor pro tem Voorhies moved to go into Executive Session pursuant to C.R.S. §§ 24-6-402(4)(b), to receive legal advice on specific legal questions relating to draft findings set forth in the state audit performed pursuant to Senate Bill 16-073 related to the City’s utilization of State Historical Fund distributions and invite Finance Director Adame; and I further move to reconvene the September 19th regular City Council meeting at the conclusion of the executive session for the sole purpose of adjourning the September 19th meeting. Alderman Laratta seconded, and without discussion, the motion carried unanimously.

At 9:20 p.m., Mayor Heider reconvened the regular meeting. Alderman Laratta moved to adjourn. Alderman Aiken seconded, and without discussion, the motion carried unanimously.

The next Council meeting is scheduled for October 10, 2017 at 7:00 p.m.

_____________________________  ______________________________
Kathryn A. Heider, Mayor          Reba Bechtel, City Clerk
September 20, 2017

Dear Mayor and Council,

It would be an honor and privilege to be apart of the Main Street Commission. I'm writing to express my interest in being able to contribute to the tradition you all and others have created and facilitated by contributing with to this foundation with innovation that will potentially contribute to the growth and progression of our beautiful and unique city and community. I can be reached via email masonjadam@gmail.com or cellphone @ 323-691-9346 with any further inquiries you may have. I look forward to your response. Have a great day!

Thanks,
Adam J. Mason
351 Eureka St
Central City CO 80427
October 6, 2017

To Whom It May Concern,

I am writing to express my interest in serving on the Main Street Commision of Central City. I have lived in Central City for the past four and half years with my four children. Not only do I reside in Central but I also work part time for one of the casinos.

I have loved watching this town grow in such positive ways over the last 4 and half years while still managing to keep its small town feel. It would bring me joy to be able to be apart of these growths if even on a small scale as well as serve my community.

Thank you for your time,
Shelby Wood
AGENDA ITEM # 9
CITY COUNCIL COMMUNICATION FORM

FROM: Ray W. Rears, Community Development Director

CC: Daniel Miera, City Manager

DATE: October 10, 2017

ITEM: An ordinance of the City Council of the City of Central, Colorado, amending Chapter 16 of the Municipal Code, specifically certain sections of the Land Development Code to implement new marijuana land use regulations, and repealing and reenacting Article VII and Article IX of Chapter 6 of the Municipal Code pertaining to medical marijuana licenses and retail marijuana licenses.

NEXT STEP: Council Action on Ordinance 17-09 – First Reading

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____ X ____ ORDINANCE
____ _____ MOTION
____ _____ INFORMATION

I. REQUEST OR ISSUE:

First reading of Ordinance 17-09 to establish a Public Hearing to consider adoption.

II. BACKGROUND INFORMATION:

Ordinance 17-09 amends the City’s Land Development Code and Articles VII and IX of Chapter 6 of the Municipal Code in order to:

- Add medical and retail testing facilities as a permitted use in the City;
- Incorporate the location criteria discussed by City Council at its September 19, 2017 work session and the recommendations from the Planning & Zoning Commission; and
- Clarify and restate Articles VII and IX of Chapter 6 of the Municipal Code to increase consistency between the two Articles and increase the ease of marijuana licensing administration.

The City is currently operating under a 180-suspension of Marijuana-related business which extended an early 180-day suspension adopted on December 20, 2016 to November 30, 2017.
Staff required this time to hear the general direction council would like to move towards as well as research the implications any change with the regulatory framework related to this use may have.

The City currently has five locations, four in HDG and one in GGG.

Prior to the suspension, Marijuana sales were limited to recreational or medical in both the HDG and GGG zoning districts, subject to obtaining a license from the City and State for that activity. No additional planning approval was required. No growing, clubs, testing or any other activity related to Marijuana was permitted.

A presentation was made in February 2017 detailing what other jurisdictions were doing in Colorado to address this activity in their community. Based on that presentation and the discussion that followed, the Council gave general direction to staff to learn more regarding testing facilities and retail limitation options.

Council also requested data on the impact of the new excise 5% tax, the voters of Central City approved in 2016 and went into effect in 2017 as well as to learn more about limiting options within the City as they related to Marijuana sales, which was related to City Council during their September 19th work session. In comparing the base 4% rate (excluding the new 5% rate to ensure a true comparison) it shows an increase in sales and therefore sales tax revenue in the amount of 17.2% Q1 2017 over Q1 2016 and 13.8% Q2 for the same period.

Staff then contacted those involved in various aspects of the industry as well as the Colorado Marijuana Enforcement Division to learn more about each use, obtain data on the impacts and benefits of each, so as to report back to council.

During a work session held on September 19th, Council discussed the following uses, and gave direction to staff in the following way:

Testing Facility

To move forward with regulations that would permit both medical and recreational marijuana testing facilities in the industrial zone. Currently the City does not have any industrial zones but we do have an industrial zone classification in our Land Development Code.

There are a few testing facilities in Colorado, which are heavily regulated by the Colorado Marijuana Enforcement Division. The CMED also confirmed that there is little impact on a community for this use, with the State regulatory limitations already in place which limit hours, deliveries and public access. This use involves the use of high tech equipment and a small but highly educated staff. There are deliveries in and out of the facility which would put this use more compatible within an industrial zoning district.

Within the draft ordinance presented it would further limit the use by ensuring compliance with the State regulations and ensuring the odor is properly managed. No buffers are considered for this activity.

Retail Sales Direction

Three options were presented to council by staff during the September 19th work session, which included ending the suspension with no action, proposing a cap, or proposing various distance
buffer limitations. Council gave the direction to staff to move forward a 200 ft. buffer in the HDG zone from existing locations and a 500 ft. buffer in the GGG zone.

Since this action involves amendments to the Land Development Code, a formal recommendation from the Planning Commission is required. The Planning Commission reviewed the proposed changes during their regular October 4th meeting and are recommending for greater buffers than what City Council requested during their work session. The draft ordinance includes the recommended revisions made by Planning Commission which include the following:

HDG buffer – 500 ft.  (Council requested a 200 ft. buffer)

GGG buffer – 1,000 ft. (Council requested a 500 ft. buffer)

Within the draft ordinance presented it would further limit the use by ensuring compliance with the State regulations and ensuring the odor is properly managed.

III. **RECOMMENDED ACTION / NEXT STEP:**

The Planning Commission recommended for the adoption of Ordinance 17-09 includes changes to the LDC. Staff is not making a recommendation since the recommendation from the Planning Commission differs from the direction City Council made staff.

A larger buffer area will likely act as a de facto cap on marijuana shops in the City along with increasing the value of the existing licenses within the city. While a smaller buffer area would provide more options for retail shops to locate within the City which could encourage more economic activity in the city and investment in our historic resources, but may also put additional pressure on the sales of existing shops.

IV. **LEGAL ISSUES:**

Staff and the City Attorney have reviewed this request and believe all legal issues have been addressed by this Ordinance.

VI. **CONFLICTS OR ENVIRONMENTAL ISSUES:**

None

VII. **SUMMARY AND ALTERNATIVES:**

1. Move to set and notice a Public Hearing before the City Council of the City of Central, Colorado for Tuesday, November 7, 2017 – 7 p.m. or later for the second reading of Ordinance 17-09 – An ordinance of the City Council of the City of Central, Colorado, amending Chapter 16 of the Municipal Code, specifically certain sections of the Land Development Code to implement new marijuana land use regulations, and repealing and reenacting Article VII and Article IX of Chapter 6 of the Municipal Code pertaining to medical marijuana licenses and retail marijuana licenses.

2. Move to set and notice a Public Hearing before the City Council of the City of Central, Colorado for Tuesday, November 7, 2017 – 7 p.m. or later for the second reading of Ordinance 17-09, based on specific revisions made City Council to the draft ordinance
presented – An ordinance of the City Council of the City of Central, Colorado, amending Chapter 16 of the Municipal Code, specifically certain sections of the Land Development Code to implement new marijuana land use regulations, and repealing and reenacting Article VII and Article IX of Chapter 6 of the Municipal Code pertaining to medical marijuana licenses and retail marijuana licenses.

3. Move to continue the request so that a specific question/issue can be addressed

4. Move to deny the request (with cause).
CITY OF CENTRAL, COLORADO
ORDINANCE 17-09

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CENTRAL, COLORADO, AMENDING CHAPTER 16 OF THE MUNICIPAL CODE, SPECIFICALLY CERTAIN SECTIONS OF THE LAND DEVELOPMENT CODE TO IMPLEMENT NEW MARIJUANA LAND USE REGULATIONS, AND REPEALING AND REENACTING ARTICLE VII AND ARTICLE IX OF CHAPTER 6 THE MUNICIPAL CODE PERTAINING TO MEDICAL MARIJUANA LICENSES AND RETAIL MARIJUANA LICENSES

WHEREAS, the City of Central ("City") is authorized under its home rule charter and Title 31 of the Colorado Revised Statutes to adopt and amend ordinances in furtherance of governmental administration and the City's police powers; and

WHEREAS, on December 20, 2016, City Council adopted Ordinance 16-07, which Ordinance enacted a temporary 180-day suspension on the submission, acceptance, processing and approval of any application for a City permit or license related to the operation of marijuana-related business and declared the City's intent to consider the adoption of amendments to existing City regulations concerning the location of such businesses and the adoption of limitations on the number of such businesses within the City; and

WHEREAS, City Council subsequently adopted Ordinance 17-05, which extended the temporary suspension until and including November 30, 2017 to provide the Community Development Director with additional time to investigate and develop, if appropriate, regulations designed to limit the concentration and/or number of marijuana businesses within the City; and

WHEREAS, City staff completed such investigation and provided recommendations to City Council; and

WHEREAS, City Council held work sessions on these issues on February 7, 2017 and September 19, 2017; and

WHEREAS the City's Planning and Zoning Commission reviewed the proposed revisions to the Land Development Code on October 4, 2017 and approved a formal recommendation for adoption by City Council; and

WHEREAS, City Council desires to implement new marijuana regulations designed to clarify existing regulations and provide opportunities for growth and economic development where appropriate; and

WHEREAS, City Council desires to repeal and replace Articles VII and IX of Chapter 6 of the Municipal Code and amend Sections 16-3-305, 16-5-202, and 16-10-201 of the City's Land Development Code as provided in this Ordinance to effectuate the above-stated goals; and

WHEREAS, City Council conducted a public hearing, with proper notice provided, to consider adoption of this Ordinance as required by law.
BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF CENTRAL, COLORADO THAT:

Section 1. Section 16-3-305 of the Central City Land Development Code, titled “Marijuana Land Use Table”, is hereby amended to read in its entirety as follows, with bold and underlined text showing additions and strikethrough text showing deletions:

Sec. 16-3-305. Marijuana Land Use Table

(a) Generally. The Marijuana Land Uses are set out in Table 16-3-305, Marijuana Land Use.

<table>
<thead>
<tr>
<th>Land Use</th>
<th>RCE</th>
<th>LDR</th>
<th>MDR</th>
<th>HDR</th>
<th>HDG</th>
<th>GGG</th>
<th>TSL</th>
<th>LCC</th>
<th>GPC</th>
<th>IND</th>
</tr>
</thead>
<tbody>
<tr>
<td>Medical marijuana center</td>
<td>-</td>
<td>-</td>
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</tr>
<tr>
<td>Medical marijuana-infused product manufacturer</td>
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<tr>
<td>Optional premises cultivation operation</td>
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<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Medical marijuana testing facility</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>I2, 3</td>
</tr>
<tr>
<td>Retail marijuana store</td>
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<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
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<tr>
<td>Retail marijuana cultivation facility</td>
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</tr>
<tr>
<td>Retail marijuana products manufacturing facility</td>
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<tr>
<td>Retail marijuana testing facility</td>
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<td>-</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>I2, 3</td>
</tr>
<tr>
<td>Marijuana club</td>
<td>-</td>
<td>-</td>
<td>-</td>
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<td></td>
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</tr>
</tbody>
</table>

(b) Limited or Conditional Use Standards. Where one or more numbers are shown next to an “L,” or a “C” in Table 16-3-305, the corresponding limited or conditional use standard (or standards) of this subsection applies to the use.

(1) Existing uses only. As of the effective date, proposed new uses are subject to Ordinance 17-05. Location Criteria.

A. In the HDG zone, no medical or retail marijuana establishment shall be located within five hundred (500) feet of another medical or retail marijuana establishment.

B. In all other zones where marijuana uses are permitted by this LDC, as set forth in Table 16-3-305, no medical or retail marijuana establishment shall be located within one thousand (1,000) feet of another medical or retail marijuana establishment.

C. The distances set forth in the above location criteria shall be computed by a straight-line measurement between property lines of the sites housing the two (2) establishments.
D. The location criteria contained in this standard shall not apply to a licensee’s corresponding dual operation if the licensee is part of a dual operation.

E. The location criteria contained in this standard shall not apply to a medical or retail marijuana establishment whose original license was issued prior to December 1, 2017 or for which a marijuana license application was pending as of December 1, 2017.

(2) State Regulations. All medical and retail marijuana establishments must comply with 1 CCR 212-1 and/or 1 CCR 212-2, as amended from time to time. In the event of a conflict between this LDC and the applicable provisions of the Colorado Code of Regulations, the more restrictive regulation(s) shall apply. The City shall not issue a Certificate of Occupancy for any medical or retail marijuana establishment until it receives confirmation from the State’s Marijuana Enforcement Division that all state requirements have been satisfied.

(3) Odor Management. For all medical and retail marijuana establishments, the odor of marijuana must not be perceptible to a reasonable person at the exterior of the building of the licensed premises or at any adjoining use of the licensed premises.

(c) Marijuana Policy. All marijuana uses that are allowable in the City, regardless of the applicable approval process, are subject to Section 16-1-103, Policy Regarding Marijuana Uses and Marijuana Cultivation.

Section 2. Table 16-5-202F of the Central City Land Development Code, titled “Marijuana Parking Standards”, is hereby amended to read in its entirety as follows, with bold and underlined text showing additions:

(f) Marijuana Parking Standards. The Marijuana parking standards are set out in Table 16-5-202F, Marijuana Parking Standards.

<table>
<thead>
<tr>
<th>TABLE 16-5-202F</th>
<th>MARIJUANA PARKING STANDARDS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land Use</td>
<td>Parking Zone</td>
</tr>
<tr>
<td></td>
<td>Historic Downtown</td>
</tr>
<tr>
<td>Medical marijuana center</td>
<td>1 space / 500 sf.</td>
</tr>
<tr>
<td>Medical marijuana-infused product manufacturer</td>
<td>N/A</td>
</tr>
<tr>
<td>Optional premises cultivation operation</td>
<td>N/A</td>
</tr>
<tr>
<td>Medical marijuana testing facility</td>
<td>N/A</td>
</tr>
<tr>
<td>Retail marijuana store</td>
<td>1 space / 500 sf.</td>
</tr>
<tr>
<td>Land Use</td>
<td>Parking Zone</td>
</tr>
<tr>
<td>----------------------------------------</td>
<td>-----------------------------------</td>
</tr>
<tr>
<td></td>
<td>Historic Downtown</td>
</tr>
<tr>
<td>Retail marijuana cultivation facility</td>
<td>N/A</td>
</tr>
<tr>
<td>Retail marijuana products manufacturing facility</td>
<td>N/A</td>
</tr>
<tr>
<td>Retail marijuana testing facility</td>
<td>N/A</td>
</tr>
</tbody>
</table>

**Section 3.** Section 16-10-201, entitled “Definitions”, is hereby amended as follows with bold, underlined text showing additions, and new definitions shall be added to the Land Development Code to show the terms in alphabetical order:

**MEDICAL MARIJUANA CENTER** means a facility that is licensed pursuant to C.R.S. § 12-43.3-101, et seq., and Article VII of Chapter 6 of the Central City Municipal Code to operate a business as described in C.R.S. § 12-43.3-402, and that sells medical marijuana to registered patients or primary caregivers as defined in Article XVIII, Section 14 of the Colorado Constitution, but is not a primary caregiver.

**MEDICAL MARIJUANA ESTABLISHMENT** means a medical marijuana center or a medical marijuana testing facility as defined in this Section 16-10-201.

**MEDICAL MARIJUANA TESTING FACILITY** means a public or private laboratory licensed pursuant to Article VII of Chapter 6 of the Central City Municipal Code and licensed and certified, or approved by the Colorado Department of Revenue Marijuana Enforcement Division, to conduct research and analyze medical marijuana, medical marijuana-infused products, and medical marijuana concentrate (as same are defined in 1 CCR 212-1) for contaminants and potency.

**RETAIL MARIJUANA ESTABLISHMENT** means a retail marijuana store or a retail marijuana testing facility as defined in this Section 16-10-201.

**RETAIL MARIJUANA STORE** means a business licensed pursuant to Article IX of Chapter 6 of the Central City Municipal Code and that is licensed to purchase retail marijuana from a retail marijuana cultivation facility, and to purchase retail marijuana product from a retail marijuana products manufacturing facility, and to sell retail marijuana and retail marijuana product to consumers.

**RETAIL MARIJUANA TESTING FACILITY** means a public or private laboratory licensed pursuant to Article IX of Chapter 6 of the Central City Municipal Code and that is licensed and certified, or approved by the Colorado Department of Revenue Marijuana Enforcement Division, to conduct research and analyze retail marijuana, retail marijuana products, and retail marijuana concentrate for contaminants and potency.
Section 4. Article VII of Chapter 6 of the Central City Municipal Code, titled “Medical Marijuana Licenses.” is hereby repealed and replaced with the following Article VII to read in full as follows:

ARTICLE VII  Medical Marijuana Licenses

Division 1 - Medical Marijuana Establishments
Division 2 - Primary Caregivers

Division 1  Medical Marijuana Establishments

Sec. 6-7-10. Findings and legislative intent.
Sec. 6-7-20. Authority.
Sec. 6-7-30. Definitions.
Sec. 6-7-40. License required; optional premises cultivation operations and medical marijuana-infused product manufacturers prohibited.
Sec. 6-7-50. Local Licensing Authority.
Sec. 6-7-60. General licensing procedures.
Sec. 6-7-70. Application for license.
Sec. 6-7-80. Denial of application.
Sec. 6-7-90. Authority to impose conditions on license.
Sec. 6-7-100. Decision on application.
Sec. 6-7-110. Notice of decision.
Sec. 6-7-120. License issuance; contents of license.
Sec. 6-7-130. License nontransferable; exceptions.
Sec. 6-7-140. Duration of license; renewals.
Sec. 6-7-150. Duties of licensee; records to be maintained.
Sec. 6-7-160. Suspension or revocation of license.
Sec. 6-7-170. Prohibited locations; permanent location required.
Sec. 6-7-180. On-site cultivation prohibited.
Sec. 6-7-190. Medical marijuana establishment requirements and restrictions.
Sec. 6-7-200. Persons prohibited as licensees and managers.
Sec. 6-7-210. Signage and advertising.
Sec. 6-7-220. Fees.
Sec. 6-7-230. Paraphernalia.
Sec. 6-7-240. Alcohol.
Sec. 6-7-250. Taxes.
Sec. 6-7-260. Penalties; injunctive relief.

Sec. 6-7-270. No waiver of governmental immunity.

Sec. 6-7-280. No City liability.

Sec. 6-7-290. Indemnification of City.

Sec. 6-7-300. Other laws remain applicable.

Sec. 6-7-310. Compliance with state law.

Sec. 6-7-10. Findings and legislative intent.

The City Council adopts this Article based upon the following findings of fact:

(1) On November 7, 2000, the voters of the State of Colorado approved Amendment 20. Amendment 20 added Section 14 of Article XVIII to the Colorado Constitution and created a limited exception from criminal liability under state law (as opposed to federal law) for seriously ill persons who are in need of marijuana for specified medical purposes and who obtain and use medical marijuana under the limited, specified circumstances described in Amendment 20.

(2) The intent of Amendment 20 is to enable certain specified persons who comply with the registration provisions of the law to legally obtain, possess, cultivate, grow, use and distribute marijuana without fear of criminal prosecution under state (as opposed to federal) law.

(3) Despite the adoption of Amendment 20, marijuana is still a controlled substance under state and federal law. As a result, making it legal for a person to obtain, possess, cultivate, grow, use and distribute marijuana, even for medical use as contemplated by Amendment 20, has the potential for abuse that should be closely monitored and regulated by local authorities to the extent possible.

(4) If not closely monitored and regulated, the presence of marijuana, even for the purposes legally permitted by Amendment 20, can cause an increase in illegal activities within the City affecting the health, safety, order, comfort, convenience and general welfare of the residents of the City.

(5) If medical marijuana establishments operating pursuant to Amendment 20 were allowed to be established and to operate without appropriate local regulation of their location, medical marijuana establishments might be established in areas that would conflict with the City's comprehensive land use plan; be inconsistent with surrounding uses; or otherwise be detrimental to the public health, safety and welfare.

(6) Nothing in this Article allows a person to:

a. Engage in conduct that endangers others or causes a public nuisance;
b. Possess, cultivate, grow, use or distribute marijuana for any purpose other than for use as medical marijuana as authorized and limited by Amendment 20 and the implementing state statutes and administrative regulations;

c. Possess, cultivate, grow, use or distribute marijuana that is otherwise illegal under applicable law; or

d. Engage in any activity related to the possession, cultivation, growing, use or distribution of marijuana that is otherwise not permitted under the laws of the City or the State.

(7) The purpose of this Article is to authorize such licensing only for medical marijuana stores and medical marijuana testing facilities, to regulate such medical marijuana establishments in the City pursuant to the requirements of this Article and to designate a local licensing authority to issue and process applications submitted for a license within the City. The operation of marijuana cultivation facilities and marijuana product manufacturing facilities is prohibited within City boundaries. In addition, all other forms of business or commerce involving the cultivation, processing, manufacturing, storage, sale, distribution or consumption of marijuana or marijuana products, whether or not conducted for profit, shall be strictly prohibited within the City's boundaries. This Article is intended to exercise the authority granted by Section 14 of Article XVIII of the Colorado Constitution and the Colorado Medical Marijuana Code for the City to adopt licensing requirements that are supplemental to and/or stricter than the requirements set forth in state law. The purpose of this Article is to license and regulate medical marijuana stores and medical marijuana testing facilities in the interest of public health, safety and the general welfare of the community.

(8) This Article is necessary and proper to provide for the safety, preserve the health, promote the prosperity and improve the order, comfort and convenience of the City and the inhabitants thereof.

(9) No person, business, activity or use that distributed or was involved in the distribution of marijuana within the City prior to the enactment of this Article, as originally adopted by Ordinance No. 10-01, shall be deemed to have been legally established under this Code, and no such person, business, activity or use shall be entitled to claim legal, nonconforming status under any provision of this Code or applicable law.

Sec. 6-7-20. Authority.

The City Council hereby finds, determines and declares that it has the power to adopt this Article pursuant to:

(1) The Local Government Land Use Control Enabling Act, Article 20 of Title 29, C.R.S.;

(2) Part 3 of Article 23 of Title 31, C.R.S. (concerning municipal zoning powers);

(3) Section 31-15-103, C.R.S. (concerning municipal police powers);

(4) Section 31-15-401, C.R.S. (concerning municipal police powers);

(5) Section 31-15-501, C.R.S. (concerning municipal authority to regulate businesses);
(6) The authority granted to home rule municipalities by Article XX of the Colorado Constitution;
(7) Section 14 of Article XVIII of the Colorado Constitution; and
(8) The Colorado Medical Marijuana Code, Article 43.3 of Title 12, C.R.S.; and
(9) The powers contained in the Home Rule Charter.

Sec. 6-7-30. Definitions.

(a) As used in this Article, the following words shall have the following meanings:

Amendment 20 means a voter-initiated amendment to the Colorado Constitution adopted November 7, 2000, codified as Section 14 of Article XVIII to the Colorado Constitution.

Applicant means a person who has submitted an application for a license pursuant to this Article.

Application means an application for a license submitted pursuant to this Article.

Authority or Local Licensing Authority means the City Council, sitting as the Central City Medical Marijuana Establishment Licensing Authority, as may be delegated to the City Clerk as more specifically enumerated in this Article.

City Clerk means the City Clerk of the City or his or her designee.

Colorado Medical Marijuana Code means Article 43.3 of Title 12 of the Colorado Revised Statutes, inclusive of promulgated rules, and as may be amended.

Crime of violence shall have the same meaning as set forth in C.R.S. § 18-1.3-406, whether committed in Colorado or another state.

Cultivation means the process by which a person promotes the germination and growth of a seed to a mature marijuana plant.

Day means a calendar day, unless otherwise indicated.

Good cause means and includes: (1) the licensee has violated, does not meet or has failed to comply with any of the terms, conditions or provisions of this Article or the LDC, and any rule and regulation promulgated pursuant to this Article, the LDC, or the Colorado Medical Marijuana Code; (2) the licensee has failed to comply with any special terms or conditions that were placed on its license at the time the license was issued pursuant to an order of the Colorado Department of Revenue or Local Licensing Authority; or (3) the licensee's medical marijuana establishment has been operated in a manner that adversely affects the public health, welfare or safety of the immediate neighborhood in which the medical marijuana establishment is located. Evidence to support a finding of good cause can include: (1) a continuing pattern of offenses against the public peace, as defined in Article VI of Chapter 10 of this Code; (2) a continuing pattern of drug-related criminal conduct within the premises of the medical marijuana establishment or in the immediate area surrounding the medical marijuana establishment; or (3) a continuing pattern of criminal
conduct directly related to or arising from the operation of the medical marijuana establishment.

*Land Development Code or LDC* means Chapter 16 of the Municipal Code, as the same may be amended from time to time.

*License* means a license to operate a medical marijuana establishment issued pursuant to this Article.

*Licensee* means a person licensed pursuant to this Article and the Colorado Medical Marijuana Code.

*Marijuana* means all parts of the plant of the genus *Cannabis*, whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or its resin, including marijuana concentrate. *Marijuana* does not include industrial hemp, nor does it include fiber produced from its stalks, oil or cake made from the seeds of the plant or the sterilized seed of the plant which is incapable of germination or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other product.

*Medical marijuana center* means a facility that is licensed pursuant to C.R.S. § 12-43.3-101, et seq., and this Article to operate a business as described in C.R.S. § 12-43.3-402, and that sells medical marijuana to registered patients or primary caregivers as defined in Article XVIII, Section 14 of the Colorado Constitution, but is not a primary caregiver.

*Medical marijuana establishment* means a medical marijuana center or a medical marijuana testing facility.

*Medical marijuana-infused product* means a product infused with medical marijuana that is intended for use or consumption other than by smoking, including but not limited to edible products, ointments and tinctures.

*Medical marijuana-infused product manufacturer* means a business as described in C.R.S. § 12-43.3-404, that is licensed pursuant to C.R.S. § 12-43.3-101, et seq.

*Medical marijuana testing facility* means a public or private laboratory licensed pursuant to this Article and licensed and certified, or approved by the Colorado Department of Revenue Marijuana Enforcement Division, to conduct research and analyze medical marijuana, medical marijuana-infused products, and medical marijuana concentrate (as same are defined in 1 CCR 212-1) for contaminants and potency.

*Optional premises cultivation operation* means a business described in C.R.S. § 12-43.3-403, licensed pursuant to C.R.S. § 12-43.3-101, et seq.

*Patient* has the meaning provided in Section 14(1)(d) of Article XVIII of the Colorado Constitution as further defined and regulated in C.R.S. § 25-1.5-106.

*Primary caregiver* has the meaning provided in Section 14(1)(f) of Article XVIII of the Colorado Constitution as further defined and regulated in C.R.S. § 25-1.5-106 and 5 CCR 1006-2.
School means a public or private preschool or a public or private elementary, middle, junior high, high school, or technical or vocational school as further defined in Section 16-10-201 of the LDC.

State licensing authority means the authority created for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution and sale of marijuana in Colorado, pursuant to C.R.S. § 12-43.3-201.

(b) In addition to the definitions provided in Subsection (a) above, the other defined terms in Amendment 20 are incorporated into this Article by reference.

Sec. 6-7-40. License required; optional premises cultivation operations and medical marijuana-infused product manufacturers prohibited.

(a) No person shall operate a medical marijuana establishment within the City without a valid license issued in accordance with this Article. Any requirements set forth in this Article shall be in addition to, and not in lieu of, any other requirements imposed by any state or local law. The issuance of any license pursuant to this Article 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. No marijuana-related land use shall be permitted unless expressly authorized by the Land Development Code, including Section 16-3-305 (“Marijuana Land Use Table”). No medical marijuana establishment shall be located in any zone district other than the zone districts in which such uses are permitted pursuant to the LDC.

(b) The following uses shall be prohibited within the boundaries of the City:

(1) Optional premises cultivation operations; and

(2) Medical marijuana-infused product manufacturers.

Sec. 6-7-50. Local Licensing Authority.

(a) There shall be and is hereby created the Central City Medical Marijuana Establishment Licensing Authority, hereafter referred to in this Article as the "Authority" or the "Local Licensing Authority."

(b) The Authority shall be the City Council. The City Council may, by resolution, delegate its authority set forth in this Article to the City Clerk.

(c) The Authority shall have the duty and authority pursuant to the Colorado Medical Marijuana Code and this Article to grant or refuse licenses in the manner provided by law.

(d) The Authority shall have all the powers of a Local Licensing Authority as set forth in the Colorado Medical Marijuana Code.

(e) The Authority shall have the power to promulgate rules and regulations concerning the procedures for hearings before the Authority.
(f) The Authority shall have the power to require any applicant or licensee to furnish any relevant information required by the Authority.

(g) The Authority shall have the power to administer oaths and issue subpoenas to require the presence of persons and the production of papers, books and records at any hearing which the Authority is authorized to conduct.

(h) The Local Licensing Authority shall possess all powers given to local licensing authorities by the provisions of the Colorado Medical Marijuana Code and rules and regulations promulgated thereunder. Any decision made by the Authority to grant or deny a license, to revoke or suspend a license, to conditionally grant a license or to renew or not renew a license shall be a final decision which may be appealed to a court of competent jurisdiction pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure. No defense or objection may be presented for judicial review unless it is first presented to the Authority prior to the effective date of the Authority's decision.

Sec. 6-7-60. General licensing procedures.

(a) For the purpose of regulating medical marijuana, the Authority, in its discretion, upon application in the prescribed form, may issue and grant to the applicant a local license for a medical marijuana establishment, subject to the provisions and restrictions provided in this Article, the Land Development Code, Section 14 of Article XVIII of the Colorado Constitution and the Colorado Medical Marijuana Code. In accordance with Section 6-7-40 of this Article, the operation of optional premises cultivation operations or medical marijuana-infused product manufacturers within the corporate boundaries of the City is prohibited.

(b) The Authority may approve an application for a license under this Article when, after thorough consideration of the application, and from review of such other information as required by this Article or the Colorado Medical Marijuana Code, the Authority determines that the applicant complies with all of the requirements of this Article, the LDC, and the Colorado Medical Marijuana Code, including the following:

1. The application, including any required attachments and submissions, is complete and signed by the applicant;

2. The applicant has paid the application fee and any other fees required by this Article;

3. The application does not contain a material falsehood or misrepresentation;

4. The location of the medical marijuana establishment is proposed to be located in a location permitted by this Article, the Land Development Code, and other applicable provisions of this Code;

5. The criminal history of the applicant, and the applicant's owners, officers and managers, does not disqualify the applicant from holding a license; and

6. The applicant meets or otherwise will meet all the requirements of this Article, the LDC, and the Colorado Medical Marijuana Code.
(c) The Authority shall approve, conditionally approve or deny a license application, and shall promptly forward its decision to the state licensing authority.

(d) Prior to the issuance of any license, the Authority shall make a finding and determination as to the good moral character of the applicant in accordance with the standards and procedures set forth in the Colorado Medical Marijuana Code. In so doing, the Authority may incorporate any findings as to good moral character previously made by the state licensing authority. The Authority shall not be required to perform a criminal background check: (i) if the state licensing authority has performed a criminal background check on the applicant to the satisfaction of the Authority; or (ii) if the Authority issues a license conditioned on the completion and successful review of the criminal background check prior to the approval of the license.

(e) Upon receipt of the application for a medical marijuana establishment license, the Authority may circulate the application to the Community Development Department, the Gilpin County Sheriff’s Office (“GCSO”), the Fire Department or any other City department the Authority deems necessary in order to determine whether the proposed facility is or will be in compliance with any and all applicable local laws, rules and regulations.

(f) After approval of an application and prior to the issuance of a license, the premises proposed to be licensed shall be inspected by the Building Official to determine compliance with the City's building and other life, health and safety codes. No license shall be issued if the proposed licensed premises does not comply with the City's building and technical codes as identified by the Building Official in writing provided to the applicant. Throughout the term of the license, the Building Official may inspect the licensed premises to determine continuing compliance with the City's building and technical codes.

(g) The Authority shall deny any application for a license that is not in compliance with this Article, the Land Development Code, the Colorado Medical Marijuana Code or any other applicable state or local law or regulation. Notwithstanding the foregoing, the Authority may issue a conditional license.

(h) In the event the City incurs costs in the inspection, clean-up or any other requirements to remove marijuana of any medical marijuana establishment, the business and responsible persons shall reimburse the City all actual costs incurred by the City for such inspection or clean-up.

(i) In the event that a medical marijuana establishment does not commence operations within sixty (60) days of issuance of a license from the City, the license shall be deemed forfeited and the business may not commence operations.

Sec. 6-7-70. Application for license.

(a) An applicant seeking to obtain a license pursuant to this Article shall file an application with the City Clerk. The form of the application shall be provided by the City and shall include all information required by this Article and any additional information requested by the City Clerk if such information, in his or her opinion, is reasonably necessary to complete the investigation and review of the application. An applicant shall pay to the City a nonrefundable application fee when the application is filed. The purpose of the fee is to
cover the administrative costs of processing the application. The City Council shall fix the amount of the application fee by resolution.

(b) The application must include the following:

(1) Proof of ownership or legal possession of the proposed licensed premises.

(2) Consent from the landowner if the proposed premises will be leased. If the owner of the proposed medical marijuana establishment is not the owner of the proposed licensed premises, the applicant shall provide written authorization to the City from the owner to enter the property for inspection of the proposed licensed premises on a form approved by the City.

(3) Names and addresses of the owners of the proposed medical marijuana establishment.

(4) If the owner is a corporation, partnership, limited liability company or other business entity, the name, social security number and address of any officer or director of the entity and of any person holding one percent (1%) or more of the issued and outstanding capital stock or other ownership interest of the entity.

(5) A completed set of the applicant fingerprints of each person specified in Paragraph (4) above.

(6) Names and addresses of any manager or managers of the proposed medical marijuana establishment.

(7) An operating plan for the proposed medical marijuana establishment, including the following information:

a. A description of the products and services to be provided by the medical marijuana establishment.

b. A floor plan showing all interior dimensions of the proposed licensed premises and the layout of the medical marijuana establishment, including all limited access areas, areas of ingress and egress and locations of all points of sale and security cameras. Such floor plan shall also show the principal uses of the floor area depicted therein.

c. A security plan indicating how the applicant intends to comply with the requirements of this Article, the Colorado Medical Marijuana Code 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, Section 24-72-203(2)(a)(VIII), C.R.S. If the City determines that such security plan and related documents are subject to inspection, it will attempt to provide at least twenty-four (24) hours' advance notice to the applicant prior to such disclosure.

d. An area map, drawn to scale, indicating, within a radius of one-quarter (¼) mile from the boundaries of the property upon which the medical marijuana establishment is proposed to be located, the proximity of the property to any school or to any residential zone district within the City.
(8) A statement of whether or not any person holding any ownership interest in the proposed medical marijuana establishment has:
   a. Been denied an application for a medical marijuana license or retail marijuana license by the State or any other local jurisdiction in the State or has had such a license suspended or revoked; and
   b. Been convicted of a felony or has completed any portion of a sentence due to a felony charge within the preceding five (5) years.

(9) Proof that the proposed medical marijuana establishment will be located in a location that permits such land use under this Article, the Land Development Code, and other applicable provisions of this Code.

(10) Proof that all initial application, licensing, background and other fees due and payable to properly license and operate a medical marijuana establishment, and as determined by the Authority, have been paid.

(11) Any additional documents or information requested by the Authority.

(c) A license issued pursuant to this Article does not eliminate the need for the licensee to obtain other required City licenses and licenses related to the operation of the approved medical marijuana establishment, including, without limitation:

(1) Any required land use approval, if applicable;
(2) A City business and sales tax license; and
(3) Any building permits, including mechanical, plumbing or electrical permits.

Sec. 6-7-80. Denial of application.

The Authority shall deny any application that does not meet the requirements of this Article when: the applicant fails to cooperate with the City during the application phase; the applicant fails to meet all of the standards set forth in Section 6-7-60 above; the applicant fails to provide any application materials to the City in accordance with Section 6-7-70 above; the applicant provides inaccurate or false information to the City during the application phase; or the applicant fails to obtain any other required City license, including but not limited to those required by Subsection 6-7-70(c) above.

Sec. 6-7-90. Authority authorized to impose conditions on license.

The Authority is authorized to impose terms and conditions on a license as may be necessary to protect the public health, safety and welfare, or to ensure compliance with the requirements of this Article, the Land Development Code, the Colorado Medical Marijuana Code or other applicable law.
Sec. 6-7-100. Decision on application.

Unless the Authority has delegated to the City Clerk the authority to approve applications administratively, the Authority shall schedule a public hearing on the application no less than thirty (30) days after the date on which the City Clerk has received a complete application, in accordance with the procedures set forth in C.R.S. § 12-43.3-302. The Authority shall approve, deny or conditionally approve an application within thirty (30) days after the public hearing concerning the application or, if the Authority has delegated to the City Clerk the authority to approve applications administratively, such decision shall be rendered within thirty (30) days after completion of the application investigation. If the applicant already holds a license for another business licensed pursuant to this Article, the Authority shall consider the effect on competition of approving or denying an application for the additional license or licenses, and shall not approve an application for an additional license that would have the effect of restraining competition. The decision and the reasons for the decision, as well as any conditions of approval, shall be in writing. The City Clerk may be authorized to approve a license application administratively under this Article as set forth in Section 6-7-50 above.

Sec. 6-7-110. Notice of decision.

The City Clerk shall notify the applicant of the decision on the application within three (3) business days of the decision being rendered. A copy of the decision shall be sent by certified mail to the applicant at the address shown in the application.

Sec. 6-7-120. License issuance; contents of license.

(a) The City Clerk shall issue a license to an applicant upon the occurrence of all of the following circumstances, as applicable:

(1) Applicant has received a written decision of approval of its application from the Local Licensing Authority;

(2) Applicant has passed all required inspections;

(3) Applicant has fulfilled all conditions for license issuance imposed by the Local Licensing Authority; and

(4) Applicant has paid the City Clerk the licensing fee and other applicable fees pursuant to this Article.

(b) A license shall contain the following information:

(1) The name of the licensee;

(2) The date of issuance of the license;

(3) The address at which the licensee is authorized to operate the medical marijuana establishment;

(4) Any special conditions of approval imposed upon the license by the Authority, pursuant to the notice of decision; and
(5) The date of the expiration of the license.

(c) A license must be signed by both the applicant and the City Clerk to be valid.

**Sec. 6-7-130. License nontransferable; exceptions.**

(a) A medical marijuana establishment license is not transferable or assignable, including, without limitation, not transferable or assignable to different premises, or to a different owner or licensee, except in accordance with this Section. A medical marijuana establishment license is valid only for the owner specifically identified on the license and the specific location for which the license is issued.

(b) A licensee may transfer or assign all ownership, rights and interests in a license subject to prior application to, and approval by, the City Clerk and compliance with C.R.S. § 12-43.3-309. The City Clerk may refer the transfer application to the Authority for a public hearing, provided that notice of the public hearing is posted on the licensed premises in conformance with C.R.S. §12-43.3-303(2), and the applicant has been provided with at least ten (10) days' advance notice of the hearing. The application for any transfer of a medical marijuana establishment license shall contain, at a minimum, all of the information required by Section 6-7-70 of this Article and any supplemental information requested in writing by the Authority. Any attempt to transfer or assign a license in violation of this Section voids the license. At the time of filing of an application for the transfer or assignment of an existing license, the applicant shall pay a transfer fee in an amount fixed by resolution by the City Council.

**Sec. 6-7-140. Duration of license; renewals.**

(a) Each license issued pursuant to this Article shall be valid for one (1) year from the date of issuance and may be renewed as provided in this Section. The license shall expire on the last day of the month in which the license is issued of the year following issuance or renewal of the license.

(b) A licensee shall renew their license issued pursuant to this Article annually. Any renewal of the license shall be governed by the standards and procedures set forth in the Colorado Medical Marijuana Code, subject to any additional restrictions on renewal as provided in this Article or promulgated by the Authority.

(c) The licensee shall apply for renewal of the medical marijuana establishment license at least forty-five (45) 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 (45) 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 applicant submits the late filing fee established pursuant to Section 6-7-220 of this Article at the time of submittal of the renewal application. The City Clerk shall not accept an application for renewal of a license after the date of its expiration except as provided in C.R.S. § 12-43.3-311(2). The renewal license fee, and late filing fee if applicable, shall accompany the application. Such fee is nonrefundable.
(2) In the event there has been a change to any of the plans identified in the license application, including but not limited to the operating plan or security plan, the renewal application shall include specifics of the changes or proposed changes in any of such plans.

(3) The renewal application shall include verification that the medical marijuana establishment has a valid state license issued by the state licensing authority, and that such license is in good standing.

(d) Failure of the licensee to renew and keep its state or local license current and valid or to make timely payment of the local licensing fees shall be grounds for revocation of any license issued pursuant to this Article.

Sec. 6-7-150. Duties of licensee; records to be maintained.

(a) It is the duty and obligation of each licensee to do the following:

(1) Comply with all of the terms and conditions of the license;
(2) Comply with all of the requirements of this Article;
(3) Comply with the LDC and all other applicable City ordinances;
(4) Comply with the Colorado Medical Marijuana Code;
(5) Comply with all state laws and administrative regulations pertaining to the use of marijuana;
(6) Comply with all applicable federal laws, rules or regulations, other than a federal law, rule or regulation concerning the possession, sale or distribution of marijuana which conflicts with Amendment 20;
(7) Permit inspection of its records and the licensed premises by the City for the purpose of determining the licensee's compliance with the terms and conditions of the license; and
(8) Post the license in a conspicuous location at the medical marijuana establishment.

(b) Each licensee shall keep a complete set of books of account, invoices, copies of orders and sales, correspondence, bank statements and all other records necessary to show fully the business transactions of such licensee. The records of the licensee shall clearly track inventory and any sales, disposal, or disposition thereof to clearly track revenue from sales of any marijuana, paraphernalia, marijuana accessories, or other transactions completed by the medical marijuana establishment. All such books and records shall be open at all times during business hours for the inspection and examination of the City or its duly authorized representatives, including any auditor selected by the City pursuant to Subsection (c) below. The City may require any licensee to furnish such information as the City deems necessary for the proper administration of this Article. 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 marijuana sold.
(c) The City may require an audit to be made of the books and records of a medical marijuana establishment on such occasions as it may consider necessary. Such audit may be made by an auditor selected by the City. The expense of any audit determined necessary by the City shall be paid by the medical marijuana establishment.

Sec. 6-7-160. Suspension or revocation of license.

(a) A license issued pursuant to this Article may be suspended or revoked by the Authority for the following reasons:

(1) Fraud, misrepresentation or a false statement of material fact contained in the license application;

(2) A violation of any City, state or federal law or regulation, other than a federal law or regulation concerning the possession, sale or distribution of marijuana that conflicts with Amendment 20;

(3) A violation of any of the terms and conditions of the license;

(4) A violation of any of the provisions of the LDC;

(5) A violation of any law which, if the violation occurred prior to the submittal of the application, could have been cause for denial of the license application;

(6) Failure to timely correct any violation of any law, or comply with any notice or order to correct a violation of any law within the time stated in the notice or order;

(7) A violation of any of the provisions of this Article, including but not limited to any violation of the duties set forth in Section 6-7-150; or

(8) Good cause.

(b) Hearing, burden of proof.

(1) The City Clerk or the GCSO may request in writing that a license issued under this Article be suspended or revoked. The written request to suspend or revoke must include the allegations upon which the suspension or revocation is based and must be provided to the licensee.

(2) The City Council, sitting in its official capacity of the Authority, shall preside over the hearing on the suspension or revocation.

(3) The date and time of the hearing must be set, written notice of which must be sent by regular mail, postage prepaid, to the licensee at least ten (10) days prior to the hearing date.

(4) Notice of the public hearing shall comply with any other applicable provisions of the Colorado Medical Marijuana Code.

(5) The hearing must be conducted based on the allegations provided in the written request. The burden shall be on the City to prove by a preponderance of the evidence that the licensee has violated the provisions of Subsection (a) above. Evidence to support a finding under Subsection (a) above may include, without limitation, a
continuing pattern of disorderly conduct or drug-related criminal conduct within the premises of the medical marijuana establishment or in the area immediately surrounding such business, or a continuing pattern of criminal conduct directly related to or arising from the operation of the medical marijuana establishment.

(6) The City shall provide the licensee with a written decision within ten (10) business days of the conclusion of the hearing. Notice shall be given by mailing a copy of the decision to the licensee by regular mail, postage prepaid, at the address shown in the license. Notice is deemed to have been properly given upon mailing.

(c) In connection with the suspension of a license, the Authority may impose reasonable conditions. The Authority shall be authorized to enter into stipulations with any licensee at or following the public hearing.

(d) In the event a medical marijuana establishment 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 Authority may suspend the license pending the resolution of the alleged violation.

(e) If the Authority revokes or suspends a license, the retail marijuana establishment may not move or remove any marijuana from the premises except under the supervision of the GCSO.

Sec. 6-7-170. Prohibited locations; permanent location required.

Prior to the issuance of a license for a medical marijuana establishment, the City Clerk shall determine whether the proposed location of the medical marijuana establishment complies with the requirements of this Section and the Land Development Code. Failure to comply with the requirements of this Section and the LDC shall preclude issuance of a license.

(1) No medical marijuana establishment shall be located within any zone district except those expressly permitted by the LDC.

(2) Each medical marijuana establishment shall be operated from a permanent location. No medical marijuana establishment shall be permitted to operate from a moveable, mobile or transitory location.

(3) No medical marijuana establishment shall be located within one thousand (1,000) feet of a school, an alcohol or drug treatment facility, the principal campus of a college, university or seminary, or a residential child care facility.

(4) Each medical marijuana establishment shall comply with the location criteria set forth in Section 16-3-305 of the LDC.

Sec. 6-7-180. On-site cultivation prohibited.

The cultivation of marijuana on or within a medical marijuana establishment is prohibited.
Sec. 6-7-190. Medical marijuana establishment requirements and restrictions.

(a) No medical marijuana center approved pursuant to this Article may sell marijuana at any time except between the hours of 10:00 a.m. and 10:00 p.m., Monday through Sunday. No medical marijuana testing facility approved pursuant to this Article may operate at any time except between the hours of 8:00 a.m. and 8:00 p.m., Monday through Sunday.

(c) All medical marijuana establishment licenses shall be issued for a specific fixed location, which shall be considered the licensed premises. No change shall be made the location of any licensed premises unless such change is approved by the Authority pursuant to the Colorado Medical Marijuana Code. The Authority may charge a processing and inspection fee to cover any processing or inspection costs, which fee shall be set by the City Council by resolution.

(d) All medical marijuana centers shall post a sign in a conspicuous location stating:

"IT IS A VIOLATION OF STATE LAW TO DIVERT MARIJUANA FOR NON-MEDICAL PURPOSES. USE OF MEDICAL MARIJUANA MAY IMPAIR A PERSON'S ABILITY TO DRIVE A MOTOR VEHICLE OR OPERATE MACHINERY, AND IT IS ILLEGAL UNDER STATE LAW TO DRIVE A MOTOR VEHICLE OR TO OPERATE MACHINERY WHEN UNDER THE INFLUENCE OF OR IMPAIRED BY MARIJUANA. LOITERING IN OR AROUND THE MEDICAL MARIJUANA ESTABLISHMENT IS PROHIBITED BY STATE LAW. IT IS ILLEGAL TO SEND OR TRANSPORT MARIJUANA TO ANOTHER STATE. THE POSSESSION OF MARIJUANA REMAINS A CRIME UNDER FEDERAL LAW."

(e) It shall be unlawful for any medical marijuana establishment to employ any person at any licensed premises who is younger than twenty-one (21) years of age.

(f) The name and contact information for the owner or owners and any manager of the medical marijuana establishment shall be conspicuously posted in the facility, together with the name and contact information of any person designated by the owner to be contacted in the event of an emergency.

(g) The medical marijuana establishment license, the business license, and applicable sales tax licenses shall be conspicuously posted in the facility.

(h) No change shall be made to the floor plan of the interior of any licensed premises unless such modification is approved by the Authority and all other appropriate City departments prior to the time the change is made. The Authority may charge a processing and inspection fee to cover any processing or inspection costs, which fee shall be set by the City Council by resolution.

(i) No marijuana shall be smoked, eaten or otherwise consumed or ingested on the licensed premises.

(j) A medical marijuana establishment 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 medical marijuana establishment or at any adjoining use or property.

(k) The licensed premises shall be monitored and secured twenty-four (24) hours a day including, at a minimum, the following security measures:
(1) Installation and use of security cameras to monitor all areas of the licensed premises where persons may gain or attempt to gain access to marijuana, marijuana products or monies maintained by the facility.

(2) Recordings from security cameras shall be maintained for a minimum of seventy-two (72) hours in a secure off-site location.

(3) Installation and use of a safe for overnight storage of any marijuana or marijuana products, and/or monies on the licensed premises, with the safe being incorporated into the building structure or securely attached thereto.

(4) Installation of a monitored user alarm system compliant with the Colorado Medical Marijuana Code and any other applicable state or local regulations.

(5) Robbery and burglary alarm systems that are professionally installed, monitored and maintained in good working condition.

Sec. 6-7-200. Persons prohibited as licensees and managers.

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

(1) Any person until all applicable fees for the license have been paid.

(2) Any person whose criminal history indicates that he or she is not of good moral character after considering the factors in C.R.S. § 24-5-101(2).

(3) Any corporation, partnership, limited liability company or other entity whose officers, members, partners, directors or stockholders are not of good moral character after considering the factors in C.R.S. § 24-5-101(2).

(4) Any natural person who is under twenty-one (21) years of age.

(5) Any person who, in the immediately preceding twelve (12) months, had a medical marijuana license or retail marijuana license revoked or suspended by the State, the Authority, or a local licensing authority in any other jurisdiction.

(6) Any person who has been convicted of a felony that is deemed a crime of violence or has completed any portion of a felony sentence within the preceding five (5) years.

(7) 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.

(8) A sheriff, deputy, police officer or prosecuting officer, or an officer or employee of the state licensing authority, the Authority or the City.

(9) Any other person prohibited as a licensee or manager pursuant to the Colorado Medical Marijuana Code and regulations promulgated thereunder.

(b) In evaluating the moral character of the individual identified on an application or amendment thereof, the Authority shall consider the following:
(1) Laws, rules and regulations applicable to evaluation of other types of licenses issued by governments that consider the good moral character of the applicants, including but not limited to the factors in C.R.S. § 24-5-101(2).

(2) Any additional information the Authority may request of the individual if the individual has violated any laws or disclosed any items which require additional information in order for the Authority to make a determination regarding issuance of the license.

Sec. 6-7-210. Signage and advertising.

(a) All signage for a medical marijuana establishment shall comply with the requirements of Chapter 14 of this Code.

(b) Any person or his or her agent licensed pursuant to this Article, may not cause advertisements, signs, displays or other promotional material depicting marijuana use or symbols to be shown or exhibited off the premises or in any manner which is visible to the public from roadways, pedestrian sidewalks or walkways, other public places, including advertising utilizing any of the following media: any billboard or other outdoor general advertising device as defined by this 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 Subsection shall not apply to:

(1) Any sign located on the same zone lot as the medical marijuana establishment which exists solely for the purpose of identifying the location of the medical marijuana establishment and which otherwise complies with the requirements of Chapter 14 of this Code;

(2) Any advertisement contained within a newspaper, magazine or other periodical; or

(3) Advertising which is purely incidental to sponsorship of a charitable or community event by the medical marijuana establishment.

(c) No licensed medical marijuana establishment shall use any advertising material that is misleading, deceptive or false or that, as evidenced either by the content of the advertising material or by the medium or the manner in which the advertising is disseminated, is designed to appeal to minors.

Sec. 6-7-220. Fees.

(a) Licensing fees, including but not limited to building inspection and re-inspection fees, renewal fees, late filing fees and all other fees necessary for the administration, regulation and implementation of this Article shall be set by the City Council by resolution.

(b) At least annually, the amount of fees charged pursuant to this Section shall be reviewed and, if necessary, adjusted to reflect the direct and indirect costs incurred by the Authority
and the City in connection with the administration and enforcement of this Article, including costs of unannounced compliance checks.

Sec. 6-7-230. Paraphernalia.

Devices, contrivances, instruments and paraphernalia for inhaling or otherwise consuming marijuana, including but not limited to rolling papers and related tools, water pipes and vaporizers, may lawfully be sold at a medical marijuana center. Medical marijuana centers may only sell or provide such items to patients or primary caregivers.

Sec. 6-7-240. Alcohol.

The sale or consumption of an alcoholic beverage within a medical marijuana establishment is prohibited.

Sec. 6-7-250. Taxes.

Each licensee shall pay applicable sales tax on all medical marijuana, paraphernalia, other tangible personal property sold, or services provided by the licensee at the medical marijuana establishment.

Sec. 6-7-260. Penalties; injunctive relief.

(a) It is a municipal offense for any person to violate any provision of this Article. Any person convicted of having violated any provision of this Article shall be punished as set forth in Section 1-4-20 of this Code.

(b) In addition to all other remedies available to the City under this Code and by law, the operation of a medical marijuana establishment without a valid license issued pursuant to this Article may be enjoined by the City in an action brought in a court of competent jurisdiction.

Sec. 6-7-270. No waiver of governmental immunity.

In adopting this Article, the City Council is relying on and does not waive or intend to waive by any provision of this Article the monetary limitations (presently three hundred fifty thousand dollars [$350,000.00] per person and nine hundred ninety thousand dollars [$990,000.00] per occurrence) or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq., or any other limitation, right, immunity or protection otherwise available to the City, its officers or its employees.
Sec. 6-7-280. No City liability.

By accepting a license issued pursuant to this Article, a licensee releases the City, its officers, elected officials, employees, attorneys and agents from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of establishment owners, operators, employees, clients or customers for a violation of state or federal laws, rules or regulations. The City Clerk may require a licensee to execute a written instrument acknowledging and confirming the licensee’s understanding of the provisions of this Section. All medical marijuana establishments that are allowable in the City are subject to Section 16-9-102 of the LDC (“Policy Regarding Marijuana Uses and Marijuana Cultivation”).

Sec. 6-7-290. Indemnification of City.

By accepting a license issued pursuant to this Article, a licensee, jointly and severally if more than one (1), agrees to indemnify and defend the City, its officers, elected officials, employees, attorneys, agents, insurers and self-insurance pool against all liability, claims and demands on account of injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage or any other loss of any kind whatsoever, which arise out of or are in any manner connected with the operation of the medical marijuana establishment that is the subject of the license. The licensee further agrees to investigate, handle, respond to and provide defense for and defend against any such liability, claims or demands at its expense and to bear all other costs and expenses related thereto, including court costs and attorney fees. The City Clerk may require a licensee to execute a written instrument confirming the provisions of this Section.

Sec. 6-7-300. Other laws remain applicable.

The provisions of this Article do not protect licensees, operators, employees, customers and clients of a licensed medical marijuana establishment from prosecution pursuant to any laws that may prohibit the cultivation, sale, use or possession of controlled substances. In addition, as of the date of the adoption of this Article, the cultivation, sale, possession, distribution and use of marijuana remain violations of federal and state law (except for conduct covered by Amendment 20), and this Article affords no protection against prosecution under such federal and state laws. Licensees, operators, employees, customers and clients of a licensed medical marijuana establishment assume any and all risk and any and all liability arising or resulting from the operation of the establishment under any state or federal law. Further, to the greatest extent licensed by law, any actions taken under the provisions of this Article by any public officers, elected or appointed officials, employees, attorneys and agents of the City shall not become a personal liability of such person or of the City.

Sec. 6-7-310. Compliance with state law.

(a) To the extent the State has adopted or adopts in the future any additional or stricter laws or regulations governing the sale or distribution of medical marijuana, the additional or stricter
regulations shall control the establishment or operation of any medical marijuana establishment in the City. Compliance with any applicable state law or regulation shall be deemed an additional requirement for issuance or denial of any license under this Article, and noncompliance with any applicable state law or regulation shall be grounds for revocation or suspension of any license issued hereunder.

(b) Any medical marijuana establishment licensed pursuant to this Article may be required to demonstrate, upon demand by the Authority or by law enforcement officers, that the source and quantity of any marijuana found upon the licensed premises is in full compliance with any applicable state laws or regulations.

(c) Except as otherwise provided herein, the Authority shall be governed by the Colorado Medical Marijuana Code now in effect or subsequently amended. In the event of any conflict between the provisions of this Article and those in the Colorado Medical Marijuana Code, the more restrictive provision shall control.

(d) If the State prohibits the cultivation, production, possession or other distribution of marijuana through medical marijuana establishments, or if a medical marijuana establishment is denied a medical marijuana establishment license through the state licensing authority or has such license revoked pursuant to the Colorado Medical Marijuana Code, 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 medical marijuana establishments supersedes state law, any license issued pursuant to this Article shall be deemed to be immediately revoked by operation of law, with no ground for appeal or other redress on behalf of the licensee.

(e) A license for a medical marijuana establishment is a revocable privilege and no applicant therefor or holder thereof shall be deemed to have acquired any property interest therein.

Division 2 Primary Caregivers

Sec. 6-7-410. Compliance with state law.

Sec. 6-7-410. Primary caregiver requirements.

(a) No primary caregiver shall produce, offer, sell or grow medical marijuana within the City without a valid business and sales tax license issued in accordance with this Chapter.

(b) Primary caregivers shall comply with all applicable provisions of this Code and specifically the business licensing and sales tax licensing and reporting requirements set forth in this Chapter.

(c) The cultivation, production or processing of medical marijuana and medical marijuana plants by primary caregivers for patients is a home occupation subject to the regulations set forth in the Land Development Code and Section 16-3-504 of the LDC (“Growing Marijuana in Residential Dwelling Units”).
Section 5. Article IX of Chapter 6 of the Central City Municipal Code, titled “Retail Marijuana Store Licenses”, is hereby repealed and replaced with the following sections to read in full as follows:

ARTICLE IX  Retail Marijuana Licenses

Sec. 6-9-10. Findings and legislative intent.
Sec. 6-9-20. Authority.
Sec. 6-9-30. Definitions.
Sec. 6-9-40. Retail marijuana cultivation facilities and retail marijuana product manufacturing facilities prohibited; other unlawful acts.
Sec. 6-9-50. License required for retail marijuana establishments.
Sec. 6-9-60. Local Licensing Authority.
Sec. 6-9-70. General licensing procedures.
Sec. 6-9-80. Application for license.
Sec. 6-9-90. Denial of application.
Sec. 6-9-100. Authority authorized to impose conditions on license.
Sec. 6-9-110. Decision on application.
Sec. 6-9-120. Notice of decision.
Sec. 6-9-130. License issuance; contents of license.
Sec. 6-9-140. License nontransferable; exceptions.
Sec. 6-9-150. Duration of license; renewals.
Sec. 6-9-160. Duties of licensee; records to be maintained.
Sec. 6-9-170. Suspension or revocation of license.
Sec. 6-9-180. Prohibited locations; permanent location required.
Sec. 6-9-190. On-site cultivation prohibited.
Sec. 6-9-200. Retail marijuana establishment requirements and restrictions.
Sec. 6-9-210. Persons prohibited as licensees and managers.
Sec. 6-9-220. Provisions applicable to existing medical marijuana businesses.
Sec. 6-9-230. Signage and advertising.
Sec. 6-9-240. Fees.
Sec. 6-9-250. Paraphernalia.
Sec. 6-9-260. Alcohol.

Sec. 6-9-270. Taxes.

Sec. 6-9-280. Penalties; injunctive relief.

Sec. 6-9-290. No waiver of governmental immunity.

Sec. 6-9-300. No City liability.

Sec. 6-9-310. Indemnification of City.

Sec. 6-9-320. Other laws remain applicable.

Sec. 6-9-330. Compliance with state law.

Sec. 6-9-10. Findings and legislative intent.

Section 16 of Article XVIII of the Colorado Constitution and Article 43.4 of Title 12, C.R.S., vests the City Council with the option to determine whether to license retail marijuana establishments within the boundaries of the City. The purpose of this Article is to authorize such licensing only for retail marijuana stores and retail marijuana testing facilities, to regulate such retail marijuana establishments in the City pursuant to the requirements of this Article and to designate a local licensing authority to issue and process applications submitted for a license within the City. The operation of marijuana cultivation facilities and marijuana product manufacturing facilities is prohibited within City boundaries. In addition, all other forms of business or commerce involving the cultivation, processing, manufacturing, storage, sale, distribution or consumption of marijuana or marijuana products, whether or not conducted for profit, shall be strictly prohibited within the City's boundaries. This Article is intended to exercise the authority granted by Section 16 of Article XVIII of the Colorado Constitution and the Colorado Retail Marijuana Code for the City to adopt licensing requirements that are supplemental to and/or stricter than the requirements set forth in state law. The purpose of this Article is to license and regulate retail marijuana stores and retail marijuana testing facilities in the interest of public health, safety and the general welfare of the community.

Sec. 6-9-20. Authority.

The City Council hereby finds, determines and declares that it has the power to adopt this Article pursuant to:

1. The Local Government Land Use Control Enabling Act, Article 20 of Title 29, C.R.S.;
2. Part 3 of Article 23 of Title 31, C.R.S. (concerning municipal zoning powers);
3. Section 31-15-103, C.R.S. (concerning municipal police powers);
4. Section 31-15-401, C.R.S. (concerning municipal police powers);
5. Section 31-15-501, C.R.S. (concerning municipal authority to regulate businesses);
6. The authority granted to home rule municipalities by Article XX of the Colorado Constitution;
(7) Section 16 of Article XVIII of the Colorado Constitution;
(8) The Colorado Retail Marijuana Code, Article 43.4 of Title 12, C.R.S.; and
(9) The powers contained in the Home Rule Charter.

Sec. 6-9-30. Definitions.

(a) As used in this Article, the following words shall have the following meanings:

*Amendment 64* means a voter-initiated amendment to the Colorado Constitution adopted November 6, 2012, codified as Section 16 of Article XVIII to the Colorado Constitution.

*Applicant* means a person who has submitted an application for a license to operate a retail marijuana establishment pursuant to this Article.

*Application* means an application for a license submitted pursuant to this Article.

*Authority* or *Local Licensing Authority* means the City Council, sitting as the Central City Retail Marijuana Establishment Licensing Authority, as may be delegated to the City Clerk as more specifically enumerated in this Article.

*City Clerk* means the City Clerk of the City or his or her designee.

*Colorado Retail Marijuana Code* means Article 43.4 of Title 12 of the Colorado Revised Statutes, inclusive of rules and regulations promulgated thereunder, and as the same may be amended from time to time.

*Crime of violence* shall have the same meaning as set forth in Section 18-1.3-406, C.R.S., whether committed in Colorado or another state.

*Cultivation* means the process by which a person promotes the germination and growth of a seed to a mature marijuana plant.

*Day* means a calendar day, unless otherwise indicated.

*Good cause* means and includes: (1) the licensee has violated, does not meet or has failed to comply with any of the terms, conditions or provisions of this Article or the LDC, and any rule and regulation promulgated pursuant to this Article, the LDC, or the Colorado Retail Marijuana Code; (2) the licensee has failed to comply with any special terms or conditions that were placed on its license at the time the license was issued pursuant to an order of the Colorado Department of Revenue or Local Licensing Authority; or (3) the licensee's retail marijuana establishment has been operated in a manner that adversely affects the public health, welfare or safety of the immediate neighborhood in which the retail marijuana establishment is located. Evidence to support a finding of good cause can include: (1) a continuing pattern of offenses against the public peace, as defined in Article VI of Chapter 10 of this Code; (2) a continuing pattern of drug-related criminal conduct within the premises of the retail marijuana establishment or in the immediate area surrounding the retail marijuana establishment; or (3) a continuing pattern of criminal conduct directly related to or arising from the operation of the retail marijuana establishment.
Land Development Code or LDC means Chapter 16 of the Municipal Code, as the same may be amended from time to time.

License means a license to operate a retail marijuana establishment issued pursuant to this Article.

Licensee means a person licensed pursuant to this Article and the Colorado Retail Marijuana Code.

Marijuana means all parts of the plant of the genus Cannabis, whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or its resin, including marijuana concentrate. Marijuana does not include industrial hemp, nor does it include fiber produced from its stalks, oil or cake made from the seeds of the plant or the sterilized seed of the plant which is incapable of germination or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other product.

Marijuana accessories shall have the same meaning as set forth in Amendment 64, or as may be more fully defined in the Colorado Retail Marijuana Code.

Marijuana products shall have the same meaning as set forth in Amendment 64, or as may be more fully defined in the Colorado Retail Marijuana Code.

Operating fees means fees that must be paid by a licensee for the costs of administering and enforcing this Article as set forth in Amendment 64, or as may be more fully defined in the Colorado Retail Marijuana Code.

Retail marijuana cultivation facility means an entity that is licensed to cultivate, prepare, and package retail marijuana and sell retail marijuana to retail marijuana establishments, but not to consumers.

Retail marijuana establishment means a retail marijuana store or a retail marijuana testing facility as defined in this Article.

Retail marijuana products manufacturing facility means an entity licensed to purchase retail marijuana; manufacture, prepare, and package retail marijuana product (as defined in 1 CCR 212-2); and sell retail marijuana and retail marijuana product only to other retail marijuana products manufacturing facilities and retail marijuana stores.

Retail marijuana store means a business licensed pursuant to Article IX of Chapter 6 of the Central City Municipal Code and that is licensed to purchase retail marijuana from a retail marijuana cultivation facility, and to purchase retail marijuana product from a retail marijuana products manufacturing facility, and to sell retail marijuana and retail marijuana product to consumers.

Retail marijuana testing facility means a public or private laboratory licensed pursuant to Article IX of Chapter 6 of the Central City Municipal Code and that is licensed and certified, or approved by the Colorado Department of Revenue Marijuana Enforcement Division, to conduct research and analyze retail marijuana, retail marijuana products, and retail marijuana concentrate for contaminants and potency.
School means a public or private preschool or a public or private elementary, middle, junior high, high school, or vocational or technical school as further defined in Section 16-10-201 of the LDC.

State licensing authority means the authority created for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution and sale of marijuana in Colorado, pursuant to C.R.S. § 12-43.4-201.

(b) In addition to the definitions provided in Subsection (a) above, the other defined terms in Amendment 64 are incorporated into this Article by reference.

Sec. 6-9-40. Retail marijuana cultivation facilities and retail marijuana product manufacturing facilities prohibited; other unlawful acts.

(a) The following uses shall be prohibited within the boundaries of the City:

(1) Retail marijuana cultivation facilities; and

(2) Retail marijuana products manufacturing facilities.

(b) No person shall operate a retail marijuana cultivation facility or a retail marijuana products manufacturing facility within the corporate boundaries of the City, as the same may be adjusted from time to time through annexation or otherwise.

(c) It shall be unlawful for any person to engage in any form of business or commerce involving the cultivation, processing, manufacturing, storage, sale, distribution or consumption of marijuana or marijuana products other than: (1) medical marijuana establishments properly licensed pursuant to Article VII of this Chapter; or (2) retail marijuana establishments properly licensed pursuant to this Article. All other forms of business or commerce, whether or not conducted for profit, involving the cultivation, processing, manufacturing, storage, sale, distribution or consumption of marijuana or marijuana products are strictly prohibited within the corporate boundaries of the City.

Sec. 6-9-50. License required for retail marijuana establishments.

(a) No person shall operate a retail marijuana establishment within the City without a valid license issued in accordance with this Article.

(b) Any requirements set forth in this Article shall be in addition to, and not in lieu of, any other requirements imposed by any state or local law.

(c) The issuance of any license pursuant to this Article 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) No marijuana-related land use shall be permitted unless expressly authorized by the Land Development Code, including Section 16-3-305 (“Marijuana Land Use Table”). No retail marijuana store or retail marijuana testing facility shall be located in any zone district other than the zone districts in which such uses are permitted pursuant to the LDC.
Sec. 6-9-60. Local Licensing Authority.

(a) There shall be and is hereby created the Central City Retail Marijuana Establishment Licensing Authority, hereafter referred to in this Article as the "Authority" or the "Local Licensing Authority."

(b) The Authority shall be the City Council. The City Council may, by resolution, delegate its authority set forth in this Article to the City Clerk.

(c) The Authority shall have the duty and authority pursuant to the Colorado Retail Marijuana Code and this Article to grant or refuse licenses in the manner provided by law.

(d) The Authority shall have all the powers of a Local Licensing Authority as set forth in the Colorado Retail Marijuana Code.

(e) The Authority shall have the power to promulgate rules and regulations concerning the procedures for hearings before the Authority.

(f) The Authority shall have the power to require any applicant or licensee to furnish any relevant information required by the Authority.

(g) The Authority shall have the power to administer oaths and issue subpoenas to require the presence of persons and the production of papers, books and records at any hearing which the Authority is authorized to conduct.

(h) The Local Licensing Authority shall possess all powers given to local licensing authorities by the provisions of the Colorado Retail Marijuana Code and rules and regulations promulgated thereunder. Any decision made by the Authority to grant or deny a license, to revoke or suspend a license, to conditionally grant a license or to renew or not renew a license shall be a final decision which may be appealed to a court of competent jurisdiction pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure. No defense or objection may be presented for judicial review unless it is first presented to the Authority prior to the effective date of the Authority's decision.

Sec. 6-9-70. General licensing procedures.

(a) For the purpose of regulating retail marijuana, the Authority, in its discretion, upon application in the prescribed form, may issue and grant to the applicant a local license for a retail marijuana establishment, subject to the provisions and restrictions provided in this Article, the Land Development Code, Section 16 of Article XVIII of the Colorado Constitution and the Colorado Retail Marijuana Code. In accordance with Section 6-9-40 of this Article, the operation of retail marijuana cultivation facilities or retail marijuana product manufacturing facilities within the corporate boundaries of the City is prohibited.

(b) The Authority may approve an application for a license under this Article when, after thorough consideration of the application, and from review of such other information as required by this Article or the Colorado Retail Marijuana Code, the Authority determines that the applicant complies with all of the requirements of this Article, the LDC, and the Colorado Retail Marijuana Code, including the following:
(1) The application, including any required attachments and submissions, is complete and signed by the applicant;

(2) The applicant has paid the application fee and any other fees required by this Article;

(3) The application does not contain a material falsehood or misrepresentation;

(4) The location of the retail marijuana establishment is proposed to be located in a location permitted by this Article, the Land Development Code, and other applicable provisions of this Code;

(5) The criminal history of the applicant, and the applicant's owners, officers and managers, does not disqualify the applicant from holding a license; and

(6) The applicant meets or otherwise will meet all the requirements of this Article, the LDC, and the Colorado Retail Marijuana Code.

(c) The Authority shall approve, conditionally approve or deny a license application, and shall promptly forward its decision to the state licensing authority.

(d) Prior to the issuance of any license, the Authority shall make a finding and determination as to the good moral character of the applicant in accordance with the standards and procedures set forth in the Colorado Retail Marijuana Code. In so doing, the Authority may incorporate any findings as to good moral character previously made by the state licensing authority. The Authority shall not be required to perform a criminal background check: (i) if the state licensing authority has performed a criminal background check on the applicant to the satisfaction of the Authority; or (ii) if the Authority issues a license conditioned on the completion and successful review of the criminal background check prior to the approval of the license.

(e) Upon receipt of the application for a retail marijuana establishment license, the Authority may circulate the application to the Community Development Department, the Gilpin County Sheriff’s Office (“GCSO”), the Fire Department or any other City department the Authority deems necessary in order to determine whether the proposed facility is or will be in compliance with any and all applicable local laws, rules and regulations.

(f) After approval of an application and prior to the issuance of a license, the premises proposed to be licensed may be inspected by the Building Official to determine compliance with the City's building and other life, health and safety codes. No license shall be issued if the proposed licensed premises does not comply with the City's building and technical codes as identified by the Building Official in writing provided to the applicant. Throughout the term of the license, the Building Official may inspect the licensed premises to determine continuing compliance with the City's building and technical codes.

(g) The Authority shall deny any application for a license that is not in compliance with this Article, the Land Development Code, the Colorado Retail Marijuana Code or any other applicable state or local law or regulation. Notwithstanding the foregoing, the Authority may issue a conditional license.

(h) In the event the City incurs costs in the inspection, clean-up or any other requirements to remove marijuana of any retail marijuana establishment, the business and responsible
persons shall reimburse the City all actual costs incurred by the City for such inspection or clean-up.

(i) In the event that a retail marijuana establishment does not commence operations within sixty (60) days of issuance of a license from the City, the license shall be deemed forfeited and the business may not commence operations.

Sec. 6-9-80. Application for license.

(a) An applicant seeking to obtain a license pursuant to this Article shall file an application with the City Clerk. The form of the application shall be provided by the City and shall include all information required by this Article and any additional information requested by the City Clerk if such information, in his or her opinion, is reasonably necessary to complete the investigation and review of the application.

(b) The application must include the following:

(1) Proof of ownership or legal possession of the proposed licensed premises.

(2) Consent from the landowner if the proposed premises will be leased. If the owner of the proposed retail marijuana establishment is not the owner of the proposed licensed premises, the applicant shall provide written authorization to the City from the owner to enter the property for inspection of the proposed licensed premises on a form approved by the City.

(3) Names and addresses of the owners of the proposed retail marijuana establishment.

(4) If the owner is a corporation, partnership, limited liability company or other business entity, the name, social security number and address of any officer or director of the entity and of any person holding one percent (1%) or more of the issued and outstanding capital stock or other ownership interest of the entity.

(5) A completed set of the applicant fingerprints of each person specified in Paragraph (4) above.

(6) Names and addresses of any manager or managers of the proposed retail marijuana establishment.

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

a. A description of the products and services to be provided by the retail marijuana establishment.

b. A floor plan showing all interior dimensions of the proposed licensed premises and the layout of the retail marijuana establishment, including all limited access areas, areas of ingress and egress and locations of all points of sale and security cameras. Such floor plan shall also show the principal uses of the floor area depicted therein.

c. A security plan indicating how the applicant intends to comply with the requirements of this Article, the Colorado Retail Marijuana Code 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, C.R.S. § 24-72-203(2)(a)(VIII). If the City determines that such security plan and related documents are subject to inspection, it will attempt to provide at least twenty-four (24) hours' advance notice to the applicant prior to such disclosure.

d. An area map, drawn to scale, indicating, within a radius of one-quarter (¼) mile from the boundaries of the property upon which the retail marijuana establishment is proposed to be located, the proximity of the property to any school or to any residential zone district within the City.

(8) A statement of whether or not any person holding any ownership interest in the proposed retail marijuana establishment has:

a. Been denied an application for a medical marijuana license or retail marijuana license by the State or any other local jurisdiction in the State or has had such a license suspended or revoked; and

b. Been convicted of a felony or has completed any portion of a sentence due to a felony charge within the preceding five (5) years.

(9) Proof that the proposed retail marijuana establishment will be located in a location that permits such land use under this Article, the Land Development Code, and other applicable provisions of this Code.

(10) Proof that all initial application, licensing, operational, background and other fees due and payable to properly license and operate a retail marijuana establishment, and as determined by the Authority, have been paid.

(11) Any additional documents or information requested by the Authority.

(c) A license issued pursuant to this Article does not eliminate the need for the licensee to obtain other required City licenses and licenses related to the operation of the approved retail marijuana establishment, including, without limitation:

(1) Any required land use approval, if applicable;

(2) A City business and sales tax license; and

(3) Any building permits, including mechanical, plumbing or electrical permits.

Sec. 6-9-90. Denial of application.

The Authority shall deny any application that does not meet the requirements of this Article when: the applicant fails to cooperate with the City during the application phase; the applicant fails to meet all of the standards set forth in Section 6-9-70 above; the applicant fails to provide any application materials to the City in accordance with Section 6-9-80 above; the applicant provides inaccurate or false information to the City during the application phase; or the applicant fails to obtain any other required City license, including but not limited to those required by Subsection 6-9-80(c) above.
Sec. 6-9-100. Authority authorized to impose conditions on license.

The Authority is authorized to impose terms and conditions on a license as may be necessary to protect the public health, safety and welfare, or to ensure compliance with the requirements of this Article, the Land Development Code, the Colorado Retail Marijuana Code or other applicable law.

Sec. 6-9-110. Decision on application.

Unless the Authority has delegated to the City Clerk the authority to approve applications administratively, the Authority shall schedule a public hearing after the City Clerk has received a complete application, in accordance with the procedures set forth in C.R.S. § 12-43.4-302. The Authority shall approve, deny or conditionally approve an application within thirty (30) days after the public hearing concerning the application or, if the Authority has delegated to the City Clerk the authority to approve applications administratively, such decision shall be rendered within thirty (30) days after completion of the application investigation. The decision and the reasons for the decision, as well as any conditions of approval, shall be in writing. The City Clerk may be authorized to administratively approve a license under this Article as set forth in Section 6-9-60 above.

Sec. 6-9-120. Notice of decision.

The City Clerk shall notify the applicant of the decision on the application within three (3) business days of rendering the decision. A copy of the decision shall be sent by certified mail to the applicant at the address shown in the application.

Sec. 6-9-130. License issuance; contents of license.

(a) The City Clerk shall issue a license to an applicant upon the occurrence of all of the following circumstances, as applicable:

(1) Applicant has received a written decision of approval of its application from the Local Licensing Authority;

(2) Applicant has passed all required inspections;

(3) Applicant has fulfilled all conditions for license issuance imposed by the Local Licensing Authority; and

(4) Applicant has paid the City Clerk the licensing fee and other applicable fees pursuant to this Article.

(b) A license shall contain the following information:

(1) The name of the licensee;

(2) The date of issuance of the license;
(3) The address at which the licensee is authorized to operate the retail marijuana establishment;

(4) Any special conditions of approval imposed upon the license by the Authority, pursuant to the notice of decision, as set forth below; and

(5) The date of expiration of the license.

c) A license must be signed by both the applicant and the City Clerk to be valid.

Sec. 6-9-140. License nontransferable; exceptions.

(a) A retail marijuana establishment license is not transferable or assignable, including, without limitation, not transferable or assignable to different premises, or to a different owner or licensee, except in accordance with this Section. A retail marijuana establishment license is valid only for the owner specifically identified on the license and the specific location for which the license is issued.

(b) A licensee may transfer or assign all ownership, rights and interests in a license subject to prior application to, and approval by, the City Clerk and compliance with C.R.S. § 12-43.4-308. The City Clerk may refer the transfer application to the City Council for a public hearing, provided that notice of the public hearing is posted on the licensed premises in conformance with C.R.S. § 12-43.4-302(2), and the applicant has been provided with at least ten (10) days' advance notice of the hearing. The application for any transfer of a retail marijuana establishment license shall contain, at a minimum, all of the information required by Section 6-9-80 of this Article and any supplemental information requested in writing by the Authority. Any attempt to transfer or assign a license in violation of this Section voids the license. At the time of filing of an application for the transfer or assignment of an existing license, the applicant shall pay a transfer fee in an amount fixed by resolution by the City Council.

Sec. 6-9-150. Duration of license; renewals.

(a) Each license issued pursuant to this Article shall be valid for one (1) year from the date of issuance and may be renewed as provided in this Section. The license shall expire on the last day of the month in which the license is issued of the year following issuance or renewal of the license.

(b) A licensee shall renew their license issued pursuant to this Article annually. Any renewal of the license shall be governed by the standards and procedures set forth in the Colorado Retail Marijuana Code, subject to any additional restrictions on renewal as provided in this Article or promulgated by the Authority.

(c) The licensee shall apply for renewal of the retail marijuana establishment license at least forty-five (45) 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 (45) 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 applicant
submits the late filing fee established pursuant to Section 6-9-240 of this Article at the time of submittal of the renewal application.

(1) The renewal license fee, and late filing fee if applicable, shall accompany the application. Such fee is nonrefundable.

(2) In the event there has been a change to any of the plans identified in the license application, including but not limited to the operating plan or security plan, the renewal application shall include specifics of the changes or proposed changes in any of such plans.

(3) The renewal application shall include verification that the retail marijuana establishment has a valid state license issued by the state licensing authority, and that such license is in good standing.

(4) The City shall not accept renewal applications after the expiration of a license, but instead shall require the applicant to file a new license application.

(d) Failure of the licensee to renew and keep its state or local license current and valid or to make timely payment of the local licensing or operating fees shall be grounds for revocation of any license issued pursuant to this Article.

Sec. 6-9-160. Duties of licensee; records to be maintained.

(a) It is the duty and obligation of each licensee to do the following:

(1) Comply with all of the terms and conditions of the license;

(2) Comply with all of the requirements of this Article;

(3) Comply with the LDC and all other applicable City ordinances;

(4) Comply with the Colorado Retail Marijuana Code;

(5) Comply with all state laws and administrative regulations pertaining to the use of marijuana;

(6) Comply with all applicable federal laws, rules or regulations, other than a federal law, rule or regulation concerning the possession, sale or distribution of marijuana which conflicts with Amendment 64;

(7) Permit inspection of its records and the licensed premises by the City for the purpose of determining the licensee's compliance with the terms and conditions of the license; and

(8) Post the license in a conspicuous location at the retail marijuana establishment.

(b) Each licensee shall keep a complete set of books of account, invoices, copies of orders and sales, correspondence, bank statements and all other records necessary to show fully the business transactions of such licensee. The records of the licensee shall clearly track inventory and any sales, disposal, or disposition thereof to clearly track revenue from sales of any marijuana, paraphernalia, marijuana accessories, or other transactions completed by the retail marijuana establishment. All such books and records shall be open at all times
during business hours for the inspection and examination of the City or its duly authorized representatives, including any auditor selected by the City pursuant to Subsection (c) below. The City may require any licensee to furnish such information as the City deems necessary for the proper administration of this Article. 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 marijuana sold.

(c) The City may require an audit to be made of the books and records of a retail marijuana establishment on such occasions as it may consider necessary. Such audit may be made by an auditor selected by the City. The expense of any audit determined necessary by the City shall be paid by the retail marijuana establishment.

Sec. 6-9-170. Suspension or revocation of license.

(a) A license issued pursuant to this Article may be suspended or revoked by the Authority for the following reasons:

(1) Fraud, misrepresentation or a false statement of material fact contained in the license application;

(2) A violation of any City, state or federal law or regulation, other than a federal law or regulation concerning the possession, sale or distribution of marijuana that conflicts with Amendment 64;

(3) A violation of any of the terms and conditions of the license;

(4) A violation of any of the provisions of the LDC;

(5) A violation of any law which, if the violation occurred prior to the submission of the application, could have been cause for denial of the license application;

(6) Failure to timely correct any violation of any law, or comply with any notice or order to correct a violation of any law within the time stated in the notice or order;

(7) A violation of any of the provisions of this Article, including but not limited to any violation of the duties set forth in Section 6-9-160 above; or

(8) Good cause.

(b) Hearing, burden of proof.

(1) The City Clerk or the GCSO may request in writing that a license issued under this Article be suspended or revoked. The written request to suspend or revoke must include the allegations upon which the suspension or revocation is based and must be provided to the licensee.

(2) The City Council, sitting in its official capacity of the Authority, shall preside over the hearing on the suspension or revocation.

(3) The date and time of the hearing must be set, written notice of which must be sent by regular mail, postage prepaid, to the licensee at least ten (10) days prior to the hearing date.
(4) Notice of the public hearing shall comply with any other applicable provisions of the Colorado Retail Marijuana Code.

(5) The hearing must be conducted based on the allegations provided in the written request. The burden shall be on the City to prove by a preponderance of the evidence that the licensee has violated the provisions of Subsection (a) above. Evidence to support a finding under Subsection (a) above may include, without limitation, a continuing pattern of disorderly conduct or drug-related criminal conduct within the premises of the retail marijuana establishment or in the area immediately surrounding such business, or a continuing pattern of criminal conduct directly related to or arising from the operation of the retail marijuana establishment.

(6) The City shall provide the licensee with a written decision within ten (10) business days of the conclusion of the hearing. Notice shall be given by mailing a copy of the decision to the licensee by regular mail, postage prepaid, at the address shown in the license. Notice is deemed to have been properly given upon mailing.

(c) In connection with the suspension of a license, the Authority may impose reasonable conditions. The Authority shall be authorized to enter into stipulations with any licensee at or following the public hearing.

(d) In the event a retail marijuana establishment 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 Authority may suspend the license pending the resolution of the alleged violation.

(e) If the Authority revokes or suspends a license, the retail marijuana establishment may not move or remove any marijuana from the premises except under the supervision of the GCSO.

Sec. 6-9-180. Prohibited locations; permanent location required.

Prior to the issuance of a license for a retail marijuana establishment, the City Clerk shall determine whether the proposed location of the retail marijuana establishment complies with the requirements of this Section and Chapter 16 of this Code. Failure to comply with the requirements of this Section and with the LDC shall preclude issuance of a license.

(1) No retail marijuana establishment shall be located in any zone district except those expressly permitted by the LDC.

(2) Each retail marijuana establishment shall be operated from a permanent location. No retail marijuana establishment shall be permitted to operate from a moveable, mobile or transitory location.

(3) No retail marijuana establishment shall be located within one thousand (1,000) feet of a school, an alcohol or drug treatment facility, the principal campus of a college, university or seminary or a residential child care facility.

(4) Each retail marijuana establishment shall comply with the location criteria set forth in Section 16-3-305 of the LDC.
Sec. 6-9-190. On-site cultivation prohibited.

The cultivation of marijuana on or within a retail marijuana establishment is prohibited.

Sec. 6-9-200. Retail marijuana establishment requirements and restrictions.

(b) No retail marijuana store approved pursuant to this Article may sell marijuana at any time except between the hours of 10:00 a.m. and 10:00 p.m., Monday through Sunday. No retail marijuana testing facility approved pursuant to this Article may operate at any time except between the hours of 8:00 a.m. and 8:00 p.m., Monday through Sunday.

(c) All retail marijuana establishment licenses shall be issued for a specific fixed location, which shall be considered the licensed premises. No change shall be made the location of any licensed premises unless such change is approved by the Authority pursuant to the Colorado Retail Marijuana Code. The Authority may charge a processing and inspection fee to cover any processing or inspection costs, which fee shall be set by the City Council by resolution.

(d) All retail marijuana stores shall post a sign in a conspicuous location stating:

"IT IS ILLEGAL TO TRANSFER MARIJUANA TO ANYONE UNDER THE AGE OF TWENTY-ONE. USE OF MARIJUANA MAY IMPAIR A PERSON'S ABILITY TO DRIVE A MOTOR VEHICLE OR OPERATE MACHINERY, AND IT IS ILLEGAL UNDER STATE LAW TO DRIVE A MOTOR VEHICLE OR TO OPERATE MACHINERY WHEN UNDER THE INFLUENCE OF OR IMPAIRED BY MARIJUANA. LOITERING IN OR AROUND THE MARIJUANA ESTABLISHMENT IS PROHIBITED BY STATE LAW. IT IS ILLEGAL TO SEND OR TRANSPORT MARIJUANA TO ANOTHER STATE. THE POSSESSION OF MARIJUANA REMAINS A CRIME UNDER FEDERAL LAW."

(e) It shall be unlawful for any retail marijuana establishment to employ any person at any licensed premises who is younger than twenty-one (21) years of age.

(f) The name and contact information for the owner or owners and any manager of the retail marijuana establishment shall be conspicuously posted in the facility, together with the name and contact information of any person designated by the owner to be contacted in the event of an emergency.

(g) The retail marijuana establishment license, the business license, and applicable sales tax licenses shall be conspicuously posted in the facility.

(h) No change shall be made to the floor plan of the interior of any licensed premises unless such modification is approved by the Authority and all other appropriate City departments prior to the time the change is made. The Authority may charge a processing and inspection fee to cover any processing or inspection costs, which fee shall be set by the City Council by resolution.

(i) No marijuana shall be smoked, eaten or otherwise consumed or ingested on the licensed premises.
(j) A retail marijuana establishment 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 retail marijuana establishment or at any adjoining use or property.

(k) The licensed premises shall be monitored and secured twenty-four (24) hours a day including, at a minimum, the following security measures:

1. Installation and use of security cameras to monitor all areas of the licensed premises where persons may gain or attempt to gain access to marijuana, marijuana products or monies maintained by the facility.

2. Recordings from security cameras shall be maintained for a minimum of seventy-two (72) hours in a secure off-site location.

3. Installation and use of a safe for overnight storage of any marijuana or marijuana products, and/or monies on the licensed premises, with the safe being incorporated into the building structure or securely attached thereto.

4. Installation of a monitored user alarm system compliant with the Colorado Retail Marijuana Code and any other applicable state or local regulations.

5. Robbery and burglary alarm systems that are professionally installed, monitored and maintained in good working condition.

Sec. 6-9-210. Persons prohibited as licensees and managers.

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

1. Any person until all applicable fees for the license have been paid.

2. Any person whose criminal history indicates that he or she is not of good moral character after considering the factors in C.R.S. § 24-5-101(2).

3. Any corporation, partnership, limited liability company or other entity whose officers, members, partners, directors or stockholders are not of good moral character after considering the factors in C.R.S. § 24-5-101(2).

4. Any natural person who is under twenty-one (21) years of age.

5. Any person who, in the immediately preceding twelve (12) months, had a medical marijuana license or retail marijuana license revoked or suspended by the State, the Authority, or a local licensing authority in any other jurisdiction.

6. Any person who has been convicted of a felony that is deemed a crime of violence or has completed any portion of a felony sentence within the preceding five (5) years.

7. 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.
(8) A sheriff, deputy, police officer or prosecuting officer, or an officer or employee of the state licensing authority, the Authority or the City.

(9) Any other person prohibited as a licensee or manager pursuant to the Colorado Retail Marijuana Code and regulations promulgated thereunder.

(b) In evaluating the moral character of the individual identified on an application or amendment thereof, the Authority shall consider the following:

(1) Laws, rules and regulations applicable to evaluation of other types of licenses issued by governments that consider the good moral character of the applicants, including but not limited to the factors in C.R.S. § 24-5-101(2).

(2) Any additional information the Authority may request of the individual if the individual has violated any laws or disclosed any items which require additional information in order for the Authority to make a determination regarding issuance of the license.

Sec. 6-9-220. Provisions applicable to existing medical marijuana businesses.

(a) Pursuant to C.R.S. § 12-43.4-104, certain medical marijuana licensees or applicants qualified to receive a state license may, on or after October 1 2013, either apply for a retail marijuana establishment license in addition to their medical marijuana license, convert their medical marijuana license to a retail marijuana establishment license, or apply for a retail marijuana establishment license and surrender their medical marijuana license when the retail marijuana establishment license is issued.

(b) A person who holds both a license pursuant to Article 43.3 of Title 12, C.R.S., and a license for a retail marijuana establishment may operate both licenses in the same premises ("dual operation") provided that they meet the requirements of the Colorado Retail Marijuana Code, this Article, and the Land Development Code.

Sec. 6-9-230. Signage and advertising.

(a) All signage for a retail marijuana establishment shall comply with the requirements of Chapter 14 of this Code.

(b) Any person or his or her agent licensed pursuant to this Article, may not cause advertisements, signs, displays or other promotional material depicting marijuana use or symbols to be shown or exhibited off the premises or in any manner which is visible to the public from roadways, pedestrian sidewalks or walkways, other public places, including advertising utilizing any of the following media: any billboard or other outdoor general advertising device as defined by this 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 Subsection shall not apply to:
(1) Any sign located on the same zone lot as the retail marijuana establishment which exists solely for the purpose of identifying the location of the retail marijuana establishment and which otherwise complies with the requirements of Chapter 14 of this Code;

(2) Any advertisement contained within a newspaper, magazine or other periodical; or

(3) Advertising which is purely incidental to sponsorship of a charitable or community event by the retail marijuana establishment.

(c) No licensed retail marijuana establishment shall use any advertising material that is misleading, deceptive or false or that, as evidenced either by the content of the advertising material or by the medium or the manner in which the advertising is disseminated, is designed to appeal to minors.

(d) Any person licensed as a retail marijuana store shall include in any advertisement for marijuana the following language: "FOR ADULTS 21 AND OVER ONLY." Provided, however, that this language shall not be required to be displayed upon any sign identifying a retail marijuana store.

Sec. 6-9-240. Fees.

(a) Licensing fees, operating fees, including but not limited to building inspection and re-inspection fees, renewal fees, late filing fees and all other fees necessary for the administration, regulation and implementation of this Article shall be set by the City Council by resolution.

(b) At least annually, the amount of fees charged pursuant to this Section shall be reviewed and, if necessary, adjusted to reflect the direct and indirect costs incurred by the Authority and the City in connection with the administration and enforcement of this Article, including costs of unannounced compliance checks.

Sec. 6-9-250. Paraphernalia.

Devices, contrivances, instruments and paraphernalia for inhaling or otherwise consuming marijuana, including but not limited to rolling papers and related tools, water pipes and vaporizers, may lawfully be sold at a licensed retail marijuana store.

Sec. 6-9-260. Alcohol.

The sale or consumption of an alcoholic beverage within a retail marijuana establishment is prohibited.
Sec. 6-9-270. Taxes.

Each licensee shall pay applicable sales tax on all marijuana, marijuana accessories, paraphernalia, other tangible personal property sold, or services provided by the licensee at the retail marijuana establishment.

Sec. 6-9-280. Penalties; injunctive relief.

(a) It is a municipal offense for any person to violate any provision of this Article. Any person convicted of having violated any provision of this Article shall be punished as set forth in Section 1-4-20 of this Code.

(b) In addition to all other remedies available to the City under this Code and by law, the operation of a retail marijuana establishment without a valid license issued pursuant to this Article may be enjoined by the City in an action brought in a court of competent jurisdiction.

Sec. 6-9-290. No waiver of governmental immunity.

In adopting this Article, the City Council is relying on and does not waive or intend to waive by any provision of this Article the monetary limitations (presently three hundred fifty thousand dollars [$350,000.00] per person and nine hundred ninety thousand dollars [$990,000.00] per occurrence) or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act, Section 24-10-101, et seq., C.R.S., or any other limitation, right, immunity or protection otherwise available to the City, its officers or its employees.

Sec. 6-9-300. No City liability.

By accepting a license issued pursuant to this Article, a licensee releases the City, its officers, elected officials, employees, attorneys and agents from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of retail marijuana establishment owners, operators, employees, clients or customers for a violation of state or federal laws, rules or regulations. The City Clerk may require a licensee to execute a written instrument acknowledging and confirming the licensee’s understanding of the provisions of this Section. All retail marijuana establishments that are allowable in the City are subject to Section 16-9-102 (“Policy Regarding Marijuana Uses and Marijuana Cultivation”).

Sec. 6-9-310. Indemnification of City.

By accepting a license issued pursuant to this Article, a licensee, jointly and severally if more than one (1), agrees to indemnify and defend the City, its officers, elected officials, employees, attorneys, agents, insurers and self-insurance pool against all liability, claims and demands on account of injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage or any other loss of any kind whatsoever, which are in any manner connected with the operation of the retail
marijuana establishment that is the subject of the license. The licensee further agrees to investigate, handle, respond to and provide defense for and defend against any such liability, claims or demands at its expense and to bear all other costs and expenses related thereto, including court costs and attorney fees. The City Clerk may require a licensee to execute a written instrument confirming the provisions of this Section.

Sec. 6-9-320. Other laws remain applicable.

The provisions of this Article do not protect licensees, operators, employees, customers and clients of a licensed retail marijuana establishment from prosecution pursuant to any laws that may prohibit the cultivation, sale, use or possession of controlled substances. In addition, as of the date of the adoption of this Article, the cultivation, sale, possession, distribution and use of marijuana remain violations of federal and state law (except for conduct covered by Amendment 64), and this Article affords no protection against prosecution under such federal and state laws. Licensees, operators, employees, customers and clients of a licensed retail marijuana establishment assume any and all risk and any and all liability arising or resulting from the operation of the retail marijuana establishment under any state or federal law. Further, to the greatest extent licensed by law, any actions taken under the provisions of this Article by any public officers, elected or appointed officials, employees, attorneys and agents of the City shall not become a personal liability of such person or of the City.

Sec. 6-9-330. Compliance with state law.

(a) To the extent the State has adopted or adopts in the future any additional or stricter laws or regulations governing the sale or distribution of marijuana, the additional or stricter regulations shall control the establishment or operation of any retail marijuana establishment in the City. Compliance with any applicable state law or regulation shall be deemed an additional requirement for issuance or denial of any license under this Article, and noncompliance with any applicable state law or regulation shall be grounds for revocation or suspension of any license issued hereunder.

(b) Any retail marijuana establishment licensed pursuant to this Article may be required to demonstrate, upon demand by the Authority or by law enforcement officers, that the source and quantity of any marijuana found upon the licensed premises is in full compliance with any applicable state laws or regulations.

(c) Except as otherwise provided herein, the Authority shall be governed by the Colorado Retail Marijuana Code now in effect or subsequently amended. In the event of any conflict between the provisions of this Article and those in the Colorado Retail Marijuana Code, the more restrictive provision shall control.

(d) If the State prohibits the cultivation, production, possession or other distribution of marijuana through retail marijuana establishments, or if a retail marijuana establishment is denied a retail marijuana establishment license through the state licensing authority or has such license revoked pursuant to the Colorado Retail Marijuana Code, 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 retail marijuana establishments supersedes state law, any license issued pursuant to this Article shall be deemed to be immediately revoked by operation of law, with no ground for appeal or other redress on behalf of the licensee.

(e) A license for a retail marijuana establishment is a revocable privilege and no applicant therefor or holder thereof shall be deemed to have acquired any property interest therein.

Section 6. Severability. Should any one or more sections or provisions of this Ordinance be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance, the intention being that the various sections and provisions are severable.

Section 7. Repeal. Any and all ordinances or codes or parts thereof in conflict or inconsistent herewith are, to the extent of such conflict or inconsistency, hereby repealed; provided, however, that the repeal of any such ordinance or code or part thereof shall not revive any other section or part of any ordinance or code heretofore repealed or superseded and this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the effective date of this Ordinance.

Section 8. Effective Date. This Ordinance shall become effective on December 1, 2017 following publication, public hearing, approval of City Council following second reading in accordance with Sections 5.9 and 5.10 of the City Charter, and the termination on November 30, 2017 of the temporary suspension on the submission, acceptance, processing and approval of any application for a City permit or license related to the operation of marijuana-related business.

INTRODUCED AND READ by title only on first reading at the regular meeting of the City Council of the City of Central on the ___ day of __________, 2017, at Central City, Colorado.

CITY OF CENTRAL, COLORADO

Kathryn A. Heider, Mayor

Approved as to form:

Marcus McAskin, City Attorney

ATTEST:

Reba Bechtel, City Clerk
PASSED AND ADOPTED on second reading, at the regular meeting of the City Council of the City of Central on the ___ day of __________________, 2017.

CITY OF CENTRAL, COLORADO

__________________________
Kathryn A. Heider, Mayor

ATTEST:

__________________________
Reba Bechtel, City Clerk

POSTED IN FULL AND PUBLISHED BY TITLE AND SUMMARY in the Weekly Register Call newspaper on ____________, 2017.

POSTED AND PUBLISHED BY TITLE [AND SUMMARY IF AMENDED ON SECOND READING] in the Weekly Register Call newspaper on ____________, 2017.

CITY OF CENTRAL, COLORADO

__________________________
Kathryn A. Heider, Mayor

ATTEST:

__________________________
Reba Bechtel City Clerk
AGENDA ITEM # 10
CITY COUNCIL COMMUNICATION FORM

FROM: Ray W. Rears, Community Development Director

CC: Daniel Miera, City Manager

DATE: October 10, 2017

ITEM: An Ordinance of the City Council of the City of Central, Colorado, amending Chapter 16 of the Municipal Code concerning amendment to the Land Development Code

NEXT STEP: Council Action on Ordinance 17-10 – First Reading

_X_ ORDINANCE
_____ MOTION
_____ INFORMATION

I. REQUEST OR ISSUE:

First reading of Ordinance 17-10 to establish a Public Hearing to consider adoption.

II. BACKGROUND INFORMATION:

This request is being made to address various revisions to the LDC related to clarifying direction, administrative authority over minor subdivisions/lot line adjustments as well clarification to a few definitions as well as ensuring a clear direction between sections of the code.

There has been two requests for lot line eliminations/lot consolidations which were intended to be treated as routine and therefore streamlined administratively. As part of the overall code update, such language detailing this full authority was left out of the code and this request would address that deficiency.

In addition, during the full code update, it was discussed that the gaming districts should not be used for bus parking. Staff has interpreted bus parking (not on public streets) would be defined as Heavy Truck or RV Parking and is therefore prohibited in the gaming districts. The proposed changes to definitions relate to parking areas and adding buses would clarify that determination further.
III. RECOMMENDED ACTION / NEXT STEP:

The Planning Commission reviewed the proposed revisions on October 4, 2017 and are recommending for the adoption of Ordinance 17-10 to City Council. Staff is also recommending for adoption.

IV. LEGAL ISSUES:

Staff and the City Attorney have reviewed this request and believe all legal issues have been addressed by this Ordinance.

VI. CONFLICTS OR ENVIRONMENTAL ISSUES:

None

VII. SUMMARY AND ALTERNATIVES:

1. Move to set and notice a Public Hearing before the City Council of the City of Central, Colorado for Tuesday, November 7, 2017 – 7 p.m. or later for the second reading of Ordinance 17-10 –. An ordinance of the City Council of the City of Central, Colorado, amending Chapter 16 of the Municipal Code concerning amendment to the Land Development Code

2. Move to continue the request so that a specific question/issue can be addressed

3. Move to deny the request (with cause).
CITY OF CENTRAL, COLORADO
ORDINANCE 17-10

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CENTRAL,
COLORADO AMENDING CHAPTER 16 OF THE MUNICIPAL CODE
CONCERNING AMENDMENTS TO THE LAND DEVELOPMENT CODE

WHEREAS, pursuant to Article 23, Title 31 of the Colorado Revised Statutes, the City of Central ("City") has authority to regulate the development of land within the City for the purposes of promoting the public health, safety, convenience, and the general welfare of the community; and

WHEREAS, the City Council adopted the City of Central Land Development Code ("LDC") by enactment of Ordinance No. 17-06 dated July 18, 2017; and

WHEREAS, the LDC is codified as Chapter 16 of the Municipal Code; and

WHEREAS, through the implementation of the LDC, the Community Development Director has identified the need for additional changes to the LDC including changes related to the powers of City Council and clarifying the minor and major subdivision processes; and

WHEREAS, at a duly noticed public hearing, the City of Central Planning and Zoning Commission considered the changes to the LDC set forth in this Ordinance and recommended the proposed changes City Council for approval; and

WHEREAS, the City Council has determined that the adoption of this Ordinance is legislative in nature and will further the public health, safety and welfare of the residents of the City; and

WHEREAS, City Council conducted a public hearing, with proper notice provided, to consider adoption of this Ordinance as required by law.

BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF CENTRAL,
COLORADO THAT:

Section 1. Section 16-8-107 of the Central City Land Development Code, titled "City Council", is hereby amended to read in its entirety as follows, with bold and underlined text showing additions and strikethrough text showing deletions:

Sec. 16-8-107. City Council

(a) Generally. The City Council is formed as provided in the Home Rule Charter. The City Council delegates responsibilities for the administration of the LDC as provided herein.

(b) Decisions. The City Council retains the authority to decide the following types of applications:
(1) Rezonings

(2) Certificates of designation

(3) Mining permits

(4) Development agreements (except standard-form development agreements)

(5) Text Amendments

(6) Preliminary Development Plans (and major changes to PDPs)

(7) Amendments to the boundaries of the historic district

(8) Designations of historic districts and historic landmarks

(9) Appeals from decisions of the Planning Commission or HPC

(10) Vacations of plats

(11) Abandonment of easements or rights-of-way

(12) Amendments to this LDC

(c) Ratifications.

(1) The City Council ratifies the following decisions of the Planning Commission:

A. Conditional use

B. Preliminary plat

C. Final development plans

(2) The City Council ratifies the following decisions of the HPC:

A. Certificate of Appropriateness for new construction of any building that is larger than 250 square feet, or a dwelling unit of any size

B. Certificate of Appropriateness for demolition or relocation of any building that is larger than 250 square feet

C. Certificate of Appropriateness for changes to the exterior of buildings that involve a change in the profile of the building (e.g., movement or addition of
exterior walls, changes to roof pitch, or addition or
demolition of dormers) when viewed from the street
upon which the building fronts

D. Demolition Certificates

Section 2. Table 16-8-201 of the Central City Land Development Code, titled
"Administrative Approvals and Permits", is hereby amended to read in its entirety as follows, with bold, underlined and highlighted text showing additions:

<table>
<thead>
<tr>
<th>Approval or Permit</th>
<th>Required For</th>
<th>Timing</th>
<th>Exceptions</th>
<th>Decision-Maker</th>
<th>Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land Use Approvals and Permits</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Temporary Use Permit</td>
<td>Operation of temporary use</td>
<td>Prior to establishment of temporary use</td>
<td>None</td>
<td>Administrator</td>
<td>Div. 3-3</td>
</tr>
<tr>
<td>Use Permit or Change in Use Permit</td>
<td>Check for zoning compliance as condition of issuance of building permit</td>
<td>Simultaneously with issuance of building permit</td>
<td>Building permits that are not related to establishment or change in use</td>
<td>Administrator</td>
<td>Div. 3-2</td>
</tr>
<tr>
<td>Limited Use Permit</td>
<td>Establishment of Limited Use</td>
<td>Prior to establishment of Limited Use</td>
<td>None</td>
<td>Administrator</td>
<td>Div. 3-2</td>
</tr>
</tbody>
</table>

| Site or Design Related Permits and Approvals           |                                                   |                               |                                                 |                         |           |
| Certificate of Appropriateness (Administrative)        | Certain alterations to buildings in historic district, as provided in Sec. 16-8-102(d) | Prior to building permit, if required | If building permit is not required, prior to alteration | See Sec. 16-2-300(b)    | HPO       | Div. 2-3  |
| Construction Plans                                     | Construction of public improvements such as streets, utilities, and stormwater management systems | Processed with final plat or site plan; approved prior to construction of specified improvements | N/A                                             | Building Official       | Engineering Standards Manual |
| Zoning Compliance Approval (non-historic)              | Check for zoning compliance as condition of issuance of building permit | Simultaneously with issuance of building permit | Plumbing; electrical, or other permits that do not implicate zoning standards | Administrator | passim |
| Grading, Erosion and Sediment Control                  | Authorization for site grading                    | Prior to site grading, generally simultaneously with building permit or approval of infrastructure construction plans | Traditional agricultural practices; routine landscape maintenance; ditch maintenance | Building Official       | Engineering Standards Manual |

| TABLE 16-8-201                                        |                                                   |                               |                                                 |                         |           |
### TABLE 16-8-201
**Administrative Approvals and Permits**

<table>
<thead>
<tr>
<th>Approval or Permit</th>
<th>Required For</th>
<th>Timing</th>
<th>Exceptions</th>
<th>Decision-Maker</th>
<th>Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Final Plat (major or minor subdivision)</td>
<td>Conveying lots by reference to plat; obtaining building permits within a subdivision</td>
<td>Prior to sale of or construction upon individual lots; approval of construction plans is prerequisite to approval of final plat</td>
<td>N/A</td>
<td>Administrator</td>
<td>passim</td>
</tr>
<tr>
<td>Site Plan</td>
<td>All development</td>
<td>Prior to issuance of building permit and grading, erosion, and sediment control permit</td>
<td>Single-family detached or duplex buildings on individual lots; changes in the use of a building that do not involve exterior modifications or site work</td>
<td>Administrator</td>
<td>passim</td>
</tr>
<tr>
<td>Development Agreement; Improvements Agreement; Public Improvements Agreement (however titled)</td>
<td>Providing timing and security for implementation of construction plans</td>
<td>Prior to issuance of construction permits, or as set out in the development agreement</td>
<td>Development agreements that establish vested rights or materially depart from City-approved form</td>
<td>City Manager</td>
<td>Div. 6-2</td>
</tr>
</tbody>
</table>

### Relief

| Minor Modification                  | Minor modifications to standards within this LDC or to approved Final Development Plans | Prior to the issuance of permits or approvals to which the modifications apply | Minor modifications are not available for Certificates of Appropriateness | Administrator          | Sec. 16-8-500 |

**Section 3.** Table 16-8-202 of the Central City Land Development Code, titled “Discretionary Approvals and Permits”, is hereby amended to read in its entirety as follows, with bold, underlined and highlighted text showing additions:

### TABLE 16-8-202
**Discretionary Approvals and Permits**

<table>
<thead>
<tr>
<th>Approval or Permit</th>
<th>Required For</th>
<th>Timing</th>
<th>Exceptions</th>
<th>Recommendation By</th>
<th>Issued By</th>
<th>Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land Use / Zoning</td>
<td></td>
<td></td>
<td></td>
<td>Administrator</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Conditional Use Permit</td>
<td>Establishment of a conditional use</td>
<td>Prior to the establishment of a conditional use</td>
<td>N/A</td>
<td>Administrator</td>
<td></td>
<td>Sec. 16-3-310</td>
</tr>
<tr>
<td>Rezoning</td>
<td>Changing which zone applies to a parcel proposed for development</td>
<td>Prior to the application of standards from the requested zone</td>
<td>N/A</td>
<td>PC</td>
<td>City Council</td>
<td>Sec. 16-3-105</td>
</tr>
<tr>
<td>Approval or Permit</td>
<td>Required For</td>
<td>Timing</td>
<td>Exceptions</td>
<td>Recommendation By</td>
<td>Issued By</td>
<td>Reference</td>
</tr>
<tr>
<td>--------------------</td>
<td>---------------------------------------------------</td>
<td>-------------------------------------</td>
<td>------------</td>
<td>-------------------</td>
<td>--------------------</td>
<td>------------</td>
</tr>
<tr>
<td>Certificate of Designation</td>
<td>Development of solid waste disposal sites and facilities</td>
<td>Prior to building permits for solid waste disposal sites and facilities</td>
<td>N/A</td>
<td>PC</td>
<td>City Council</td>
<td>C.R.S. § 25-15-201 or Title 30, Article 20, C.R.S., as applicable</td>
</tr>
<tr>
<td>Site Development / Subdivision / Planned Development</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Preliminary Plat</td>
<td>Approval of a proposed major subdivision (not required for minor subdivisions)</td>
<td>Prior to final plat or issuance of permits that authorize construction or site work</td>
<td>N/A</td>
<td>Administrator</td>
<td>PC, ratified by City Council (see Sec. 16-8-311(b))</td>
<td>passim</td>
</tr>
<tr>
<td>Preliminary Development Plan (&quot;PDP&quot;)</td>
<td>First step of Planned Unit Development process; filed with rezoning application and, if applicable, preliminary plat</td>
<td>Prior to approval of Final Development Plan</td>
<td>N/A</td>
<td>PC</td>
<td>City Council</td>
<td>Sec. 16-8-203</td>
</tr>
<tr>
<td>Final Development Plan (&quot;FDP&quot;)</td>
<td>Second step of Planned Unit Development process; may be filed with final plats or site plans</td>
<td>Prior to approval of final plat or site plan</td>
<td>N/A</td>
<td>Administrator</td>
<td>PC, ratified by City Council (see Sec. 16-8-311(b))</td>
<td>Sec. 16-8-203</td>
</tr>
<tr>
<td>Development Agreement; Improvements Agreement; Public Improvements Agreement (however titled)</td>
<td>Providing timing and security for implementation of construction plans; vesting development rights</td>
<td>Prior to issuance of construction permits, or as set out in the development agreement</td>
<td>Agreements that may be approved administratively</td>
<td>Administrator</td>
<td>City Council</td>
<td>Div. 6-2; Div. 8-4 (as applicable)</td>
</tr>
<tr>
<td>Historic Landmarks and Historic Districts</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Certificate of Appropriateness (HPC)</td>
<td>new building, structure, or addition located in an historic district, or movement, reconstruction, restoration, or alteration of an existing building located in an historic district or an historic landmark in any location</td>
<td>Prior to issuance of permits that authorize construction or site work</td>
<td>Certificates of appropriateness issued by HPO</td>
<td>HPO</td>
<td>HPC, ratified by City Council if required by Sec. 16-8-107(c)(2) (see Sec. 16-8-311(b))</td>
<td>Div. 2-3</td>
</tr>
</tbody>
</table>
**TABLE 16-8-202**

**DISCRETIONARY APPROVALS AND PERMITS**

<table>
<thead>
<tr>
<th>Approval or Permit</th>
<th>Required For</th>
<th>Timing</th>
<th>Exceptions</th>
<th>Recommendation By</th>
<th>Issued By</th>
<th>Reference²</th>
</tr>
</thead>
<tbody>
<tr>
<td>Demolition Certificate</td>
<td>Demolition of a building in an historic district, or demonstration of an historic landmark in any location</td>
<td>Prior to issuance of permits that authorize demolition</td>
<td>N/A</td>
<td>HPO</td>
<td>HPC, ratified by City Council (see Sec. 16-9-311(b))</td>
<td>Div. 2-3</td>
</tr>
<tr>
<td>Designation of Historic District</td>
<td>Designation of historic district</td>
<td>Prior to application of historic district standards</td>
<td>N/A</td>
<td>HPC</td>
<td>City Council</td>
<td>Div. 2-2</td>
</tr>
<tr>
<td>Designation of Historic Landmark</td>
<td>Designation of historic landmark</td>
<td>Prior to application of standards related to historic landmarks</td>
<td>N/A</td>
<td>HPC</td>
<td>City Council</td>
<td>Div. 2-2</td>
</tr>
</tbody>
</table>

**Vacation / Abandonment**

| Planned Unit Development Amendment, Major | Major changes to approved Preliminary Development Plan | Prior to implementation of major changes | N/A | PC                     | City Council                   | Sec. 16-8-203 |

| Vacation of Plat or Abandonment of Easement or Right-of-Way | Vacation of plats or abandonment of easements or rights-of-way | N/A | N/A | PC                     | City Council                   | Sec. 16-8-319 |

**Amendments**

<table>
<thead>
<tr>
<th>LDC Text Amendment</th>
<th>Amending the text of this LDC</th>
<th>N/A</th>
<th>N/A</th>
<th>PC</th>
<th>City Council</th>
</tr>
</thead>
<tbody>
<tr>
<td>Comprehensive Plan Amendment</td>
<td>Amending the text or maps of the Comprehensive Plan</td>
<td>N/A</td>
<td>N/A</td>
<td>Administrator</td>
<td>PC</td>
</tr>
</tbody>
</table>

**Relief**

| Variance | Authorizing development which does not strictly comply with the requirements of this LDC | Prior to issuance of permits that authorize the construction or site work | Variances shall not authorize uses which are otherwise prohibited in the zone, nor authorize development that does not comply with the Floodplain Management Regulations | N/A | Hearing Officer (see sec. 16-8-103) or BOA | Div. 8-5 |

| Administrative Appeals | See Sec. 16-8-502, Administrative Appeals |

**Section 4.** Section 16-10-201, entitled “Definitions”, is hereby amended as follows with bold, underlined text showing additions, and new definitions shall be added to the Land
Development Code to show the terms in alphabetical order:

**HEAVY TRUCK OR RV PARKING LOT** means a parking area that is configured for the temporary parking of commercial vehicles, *buses*, heavy trucks (including semi-trailers), and recreational vehicles.

**MAJOR SUBDIVISION** means a division of land into six or more new lots, or a division of land into any number of lots if it also includes dedications of public easements, rights-of-way, or other areas of land for public use. For the purpose of this definition, "public easements" do not include easements for utilities or drainage that serve only the lots in the subdivision.

**MINOR SUBDIVISION** means a subdivision of land into two to five new lots, or that consolidate two or more lots, or that move existing lot lines between or among lots. Minor subdivisions do not include subdivisions that involve any new or changed dedications of public easements, rights-of-way, or public land. For the purpose of this definition, "public easements" do not include easements for utilities or drainage that serve only the lots in the subdivision.

**PARKING LOT, SURFACE** means an area of land that is divided into parking spaces and access aisles, designed for parking *passenger* motor vehicles. *The phrase "parking lot, surface" does not include the phrase “Heavy Truck or RV Parking.”*

**Section 5. Severability.** Should any one or more sections or provisions of this Ordinance be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance, the intention being that the various sections and provisions are severable.

**Section 6. Repeal.** Any and all ordinances or codes or parts thereof in conflict or inconsistent herewith are, to the extent of such conflict or inconsistency, hereby repealed; provided, however, that the repeal of any such ordinance or code or part thereof shall not revive any other section or part of any ordinance or code heretofore repealed or superseded and this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the effective date of this Ordinance.

**Section 7. Effective Date.** This Ordinance shall become effective immediately following publication, public hearing and the approval of City Council following second reading in accordance with Sections 5.9 and 5.10 of the City Charter.

**INTRODUCED AND READ** by title only on first reading at the regular meeting of the City Council of the City of Central on the ____ day of ______________, 2017, at Central City, Colorado.

**CITY OF CENTRAL, COLORADO**
Kathryn A. Heider, Mayor

Approved as to form:

Marcus McAskin, City Attorney

ATTEST:

Reba Bechtel, City Clerk

PASSED AND ADOPTED on second reading, at the regular meeting of the City Council of the City of Central on the ___ day of __________________, 2017.

CITY OF CENTRAL, COLORADO

Kathryn A. Heider, Mayor

ATTEST:

Reba Bechtel, City Clerk
POSTED IN FULL AND PUBLISHED BY TITLE AND SUMMARY in the Weekly Register Call newspaper on ____________, 2017.

POSTED AND PUBLISHED BY TITLE [AND SUMMARY IF AMENDED ON SECOND READING] in the Weekly Register Call newspaper on ______________, 2017.
Development

1) Mineral Impact Grant (Comprehensive Plan, LDC and Design Guidelines) – Completed
2) CDBG – Resilience Project. – Closeout - $75,000 – Second meeting with DOLA – Near Complete
3) Wayfinding Signage –
   a. 4-6 weeks for production – Mounted in late Oct.
4) Marijuana Suspension – Draft Ordinance – 1st Reading Tonight
5) UNC Survey – Surveys submitted – awaiting findings
6) Electronic Message Signs – Work continues
7) Various initial development/building inquires addressed.
8) Joint Planning / Historic Preservation Commission held on Sept. 12th
    a. Formal recommendation to council made by both commissions for approval

Economic Development

1) Northwest Colorado Enterprise Zone
   a. Local Casino is pursuing a tax credit for qualified work
   b. Central City Opera – Enterprise Zone Project - Tax Credit Opportunities being pursued

Historic Preservation

2) Belvidere Theater
   a. RFP – Canceled - Will prepare new RFP for design/engineering only
3) Washington Hall RFP – Work continues
   a. RFP for heat – in draft stage
4) 2017 HPC Cases - 15

Code Enforcement

1) Work continues on reported violations
   a. Cases Reported in 2016 – 35
   b. Cases Reported in 2017 – 29

IT/Web/Audio Visual

1) Website, Facebook and Twitter internal administration continues.
2) Channel 13 (fmr. Channel 20) – sound still not available – work continues
3) Livestreaming meetings being investigated
Events / Marketing

1) Billboard –
   a. 2018/2019 Lease program will be released in October
   b. City #6 in-bound
      i. City Billboard – “Shop Central City” – Installed in September

2) Central City App – Mobile Town Guide developed and can be download – “Mobile Town Guide Central City”
   a. Working on an interactive walking tour of the City

3) Short Promotional Videos
   a. Video #1 Released (Recreations)
   b. Video #2 to be released soon (Events)

4) Visitor Center
   a. Refresh of the area nearly complete. New items to sell are being pursued.
   b. Winter hours have started.

5) Main Street Central City
   a. 2016 MS Central City Photo Contest Winners – Post Cards – Available For Purchase
   b. Investigating Downtown Colorado Inc. grant for paid staff to assist with MSCC efforts

6) 2017 Additional Marketing Items
   a. 118 Radio Spots purchased to promote Central City
   b. Jeffco Living print and digital ads Runs for 6 month/ change messages monthly, Attractions, Shop, Dine, local business promotion, etc.)
   c. MMAC ¼ page running new monthly messages from May through the end of August (Focus on seasonal attractions, local business, etc.)
   d. Will also be ¼ page ads ran in MMAC, The Mountain Ear, etc.
   e. Blasts, Radio Banner Ads and on-air mentions
   f. City Branding Consultant hast started
   g. Denver metro – TV ad buys being pursued

Staffing

1) Contractor(s) retained to assist with Washington Hall/ Belvidere/ Special Projects and Electronic Message Board (EMB) sign code update/discussion.

2) Management of consultant contracts.

3) Ongoing employee wellness program. – New program being investigated
Since our last council update, public works staff has performed the following activities:

- Completed crack sealing the Parkway, from the 8 mile marker to the 6 mile marker
- Started the concrete replacement project on Eureka St
- Repaired the clock on Main St
- Completed major repairs to the street sweeper
- Started converting the fleet to go from summer maintenance operations to winter maintenance operations
- Replaced some of the timbers and reset the Jersey barriers on Spruce St above the Bonanza Casino Parking Lot
Central City Stats

Dates and time:  9/1/17 00:00:00 to 9/30/17 23:59:59
Month of September

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**totals**  
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*Other Calls of Interest*

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