

**CITY OF CENTRAL, COLORADO
ORDINANCE 13-09**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CENTRAL,
COLORADO PROHIBITING THE OPERATION OF RETAIL MARIJUANA
CULTIVATION FACILITIES, RETAIL MARIJUANA PRODUCT
MANUFACTURING FACILITIES AND RETAIL MARIJUANA TESTING
FACILITIES WITHIN THE BOUNDARIES OF THE CITY OF CENTRAL,
AND ESTABLISHING A NEW ARTICLE IX TO CHAPTER 6 OF THE
CENTRAL CITY MUNICIPAL CODE REGARDING THE REGULATION OF
RETAIL MARIJUANA STORES TO COMPLY WITH THE REQUIREMENTS
OF AMENDMENT 64 TO THE COLORADO CONSTITUTION, AND SETTING
FORTH RELATED REGULATIONS AND LICENSING REQUIREMENTS**

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 November 6, 2012, the voters of the State of Colorado approved Amendment 64, codified as Section 16 of Article XVIII of the Colorado Constitution, which authorize the personal use and possession of recreational marijuana for adults; and

WHEREAS, on May 28, 2013, the governor signed House Bill 13-1317 into law enacting Title 12, Article 43.4 of the Colorado Revised Statutes (the “Colorado Retail Marijuana Code”), which regulates the cultivation, manufacture, distribution, and sale of retail marijuana; and

WHEREAS, the Colorado Retail Marijuana Code states that on or after October 1, 2013, businesses engaged in the cultivation, manufacture, or sale of marijuana or in the processing of marijuana-infused products shall apply for a license subject to its terms and conditions and any rules promulgated pursuant thereto; and

WHEREAS, the Colorado Constitution specifically authorizes the City to prohibit or regulate retail marijuana businesses and to adopt regulations consistent with the intent of the state law; and

WHEREAS, in order to comply with the Colorado Retail Marijuana Code and the new state licensing scheme, the City Council has determined to adopt a new Article IX to Chapter 6 of the Central City Municipal Code; and

WHEREAS, the City Council considered the revisions to Chapter 6 of the Municipal Code set forth in this Ordinance No. 13-09 in study sessions conducted on June 4, 2013 and July 16, 2013; and

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

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

Section 1. Addition of Article IX of Chapter 6 of the Municipal Code. A new Article IX of Chapter 6 is hereby adopted to read in full as follows:

CHAPTER 6

Business Licenses and Regulations

Article IX Retail Marijuana Store Licenses

Division 1 Retail Marijuana Stores

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ARTICLE IX

Retail Marijuana Store Licenses

Division 1 Retail Marijuana Stores

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, to regulate such retail marijuana stores 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, marijuana product manufacturing facilities and marijuana testing facilities is prohibited within City 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 in the interest of public health, safety and 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 store pursuant to this Article.

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

Authority or Local Licensing Authority means the Central City Retail Marijuana Store Licensing Authority.

City Manager means the City Manager 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. *Cultivation* does not include the storing or watering of mature marijuana plants without the aid of grow lighting.

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 and any rule and regulation promulgated pursuant to this Article 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 store has been operated in a manner that adversely affects the public health, welfare or safety of the immediate neighborhood in which the retail marijuana store is located.

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

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

Marijuana 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 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 cultivation facility means an entity which prepares and packages marijuana and sells marijuana to retail marijuana stores, to marijuana product manufacturing facilities and to other marijuana cultivation facilities in accordance with Amendment 64 and the Colorado Retail Marijuana Code, but not to consumers.

Marijuana product manufacturing facility means an entity which purchases marijuana; manufactures, prepares and packages marijuana products and sells marijuana and marijuana products to other marijuana product manufacturing facilities and to retail marijuana stores in accordance with Amendment 64 and the Colorado Retail Marijuana Code, but not to consumers.

Marijuana testing facility means an entity which analyzes and certifies the safety and potency of marijuana in accordance with Amendment 64 and 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 establishment means a retail marijuana store, a retail marijuana cultivation facility, a retail marijuana product manufacturing facility, or a retail marijuana testing facility as set forth in Section 16 of Article XVIII of the Colorado Constitution or as may be more fully defined in the Colorado Retail Marijuana Code.

Retail marijuana store means an entity which is licensed in accordance with the Colorado Retail Marijuana Code and this Article to purchase marijuana from marijuana cultivation facilities, to purchase marijuana and marijuana products from marijuana product manufacturing facilities, and to sell marijuana and marijuana products to consumers.

School means a public or private preschool or a public or private elementary, middle, junior high or high school.

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. Marijuana cultivation facilities, marijuana product manufacturing facilities, and marijuana testing facilities prohibited.

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

- (1) Marijuana cultivation facilities;
- (2) Marijuana product manufacturing facilities; and
- (3) Marijuana testing facilities.

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

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

(a) No person shall operate a retail marijuana store 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.

Sec. 6-9-60. Local licensing authority.

(a) There shall be and is hereby created the Central City Retail Marijuana Store 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 Manager.

(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 the District Court 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 the sale of 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 store, subject to the provisions and restrictions provided in this Article, Section 16 of Article XVIII of the Colorado Constitution and the Colorado Retail Marijuana Code. In accordance with Section 6-6-40 of this Article, the operation of marijuana cultivation facilities, marijuana product manufacturing facilities or marijuana testing facilities within the corporate boundaries of the City is prohibited.

(b) The Authority shall issue 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 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 store is proposed to be located in a location permitted by this Article 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 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 store license, the Authority may circulate the application to the Planning Department, the Police Department, 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 premise 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 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 store, the business and responsible person(s) 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 store 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 Manager. 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 Manager 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(s) of the proposed retail marijuana store 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) Name(s) and address(es) of the owner(s) of the proposed retail marijuana store.

(4) If the owner is a corporation, partnership, limited liability company, or other business entity, the name(s), social security number(s), and address(es) 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 subsection (4) and/or (4) of this Section 6-9-80(b).

(6) Name(s) and address(es) of any manager or managers of the proposed retail marijuana store.

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

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

B. A floor plan showing all interior dimensions of the proposed licensed premises and the layout of the retail marijuana store, including all limited access areas, areas of ingress and egress, and location(s) of all 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 mile from the boundaries of the property upon which the retail marijuana store 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 store has:

A. Been denied an application for a medical marijuana establishment license or retail marijuana establishment 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 store will be located in a location that permits such land use under this Article 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 store, and as determined by the Authority, have been paid.

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

(d) 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 store, 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 license.

The Authority shall deny an application for a license under this Article when the applicant fails to cooperate with the City during the application phase, when the applicant fails to meet all of the standards set forth in Section 6-9-70 above, when the applicant fails to provide any application materials to the City in accordance with Section 6-9-80 above, when the applicant provides inaccurate or false information to the City during the application phase, or when the applicant fails to obtain any other required City license, including but not limited to those required by Section 6-9-80(d) 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 Colorado Retail Marijuana Code, or other applicable law.

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

The Authority shall approve, deny or conditionally approve an application within thirty (30) days of the receipt of the completed application. The decision and the reasons for the decision, as well as any conditions of approval, shall be in writing.

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

The City Manager 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. Contents of license.

(a) A license shall contain the following information:

(1) The name of the licensee;

- (2) The date of the issuance of the license;
 - (3) The address at which the licensee is authorized to operate the retail marijuana store;
 - (4) Any special conditions of approval imposed upon the license by the Authority, pursuant to notice of decision, as follows; and
 - (5) The date of the expiration of the license.
- (b) A license must be signed by both the applicant and the City Manager to be valid.

Sec. 6-9-140. License non-transferable; exceptions.

(a) A retail marijuana store license is not transferable or assignable, including without limitation, not transferable or assignable to a different premise, or to a different owner or licensee, except in accordance with this Section 6-9-140. A retail marijuana store 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 Manager and compliance with Section 12-43.4-308, C.R.S. The City Manager 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 Section 12-43.4-302(2), C.R.S., 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 store 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.

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 store 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 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 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 store 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 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 Manager 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 store.

(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 purchased and sales and disposal thereof to clearly track revenue from sales of any marijuana, paraphernalia and marijuana accessories offered by the retail marijuana store. 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 Section 6-9-160(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 store 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 store.

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 law which, if occurring prior to the submittal of the application, could have been cause for denial of the license application;

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

(6) 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; or

(7) Good cause.

(b) Hearing, burden of proof.

(1) The City Manager or the Police Chief 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.

(6) A written decision must be provided to the licensee 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 store 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 store may not move or remove any marijuana from the premises except under the supervision of the Central City Police Department.

(f) Any decision made by the Authority shall be a final decision and may be appealed to the District Court, pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure. The licensee's failure to timely appeal the decision is a waiver of the licensee's right to contest the suspension or revocation of the license.

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

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

(1) No retail marijuana store shall be located within an area zoned for single-family residential use.

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

(3) No retail marijuana store 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.

Sec. 6-9-190. On-site cultivation prohibited.

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

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

(a) No retail marijuana store approved pursuant to this article may sell marijuana at any time except between the hours of 10:00 a.m. to 10:00 p.m.

(b) All retail marijuana store licenses shall be issued for a specific fixed location, which shall be considered the licensed premises.

(c) 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. IT IS ILLEGAL TO SEND OR TRANSPORT
MARIJUANA TO ANOTHER STATE. THE POSSESSION OF MARIJUANA
REMAINS A CRIME UNDER FEDERAL LAW.”

(d) It shall be unlawful for any retail marijuana store to employ any person at a licensed premise who is younger than twenty-one (21) years of age.

(e) The name and contact information for the owner or owners and any manager of the retail marijuana store 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.

(f) The retail marijuana store license, the business license and the sales tax license shall be conspicuously posted in the facility.

(g) 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.

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

(i) A retail marijuana store 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 store or at any adjoining use or property.

(j) 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 store, and no license provided by this Article shall be issued to, or held by, and no retail marijuana store shall be managed by:

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

(2) Any person not of good moral character.

(3) Any corporation, partnership, limited liability company, or other entity whose officers, members, partners, directors or stockholders are not of good moral character.

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

(5) Any person who, in the immediately preceding twelve (12) months had a medical marijuana facility license or retail marijuana establishment license revoked or suspended by the State, or by a local licensing authority in the City or 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 person of bad moral character as defined by the Colorado Retail Marijuana Code.

(b) In making the evaluation of the good 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.

(2) Any additional information the Authority may request of the individual if the individual has a violation of any laws, or items disclosed by the individual 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 section 12-43.4-104, C.R.S., 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 store may operate both licenses in the same premises (“dual operation”) provided they meet the requirements of the Colorado Retail Marijuana Code and this Article.

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

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

(b) Any person or their 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 place, 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 section (b) shall not apply to:

(1) Any sign located on the same zone lot as the retail marijuana store which exists solely for the purpose of identifying the location of the retail marijuana store 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 store.

(c) No licensed retail marijuana store 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, 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 store is prohibited.

Sec. 6-9-270. Taxes.

Each licensee shall pay sales tax on all marijuana, marijuana accessories, paraphernalia and other tangible personal property sold by the licensee at the retail marijuana store.

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 store 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 one hundred fifty thousand dollars [\$150,000.00] per person and six hundred thousand dollars [\$600,000.00] 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 store owners, operators, employees, clients or customers for a violation of state or federal laws, rules or regulations. The City Manager may require a licensee to execute a written instrument confirming the provisions of this Section.

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 arise out of or are in any manner connected with the operation of the retail marijuana store 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 Manager 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 store 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 store assume any and all risk and any and all liability arising or resulting from the operation of the retail marijuana store 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 store 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 store 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 stores, or if a retail marijuana store is denied a retail marijuana store 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 stores 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 store is a revocable privilege, and no applicant therefore or holder thereof shall be deemed to have acquired any property interest therein.

Sec 6-9-340 – 6-9-400 [Reserved]

Section 2. **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 3. **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 4. **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 20th day of August, 2013, at Central City, Colorado.

CITY OF CENTRAL, COLORADO

Ronald E. Engels, 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 3rd day of September, 2013.

CITY OF CENTRAL, COLORADO

Ronald E. Engels, Mayor

ATTEST:

Reba Bechtel, City Clerk

POSTED IN FULL AND PUBLISHED BY TITLE AND SUMMARY in the Weekly Register Call newspaper on August 22, 2013.

POSTED AND PUBLISHED BY TITLE [AND SUMMARY IF AMENDED ON SECOND READING] in the Weekly Register Call newspaper on September 5, 2013.

CITY OF CENTRAL, COLORADO

Ronald E. Engels, Mayor

ATTEST:

Reba Bechtel City Clerk