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**GRAND JUNCTION CITY COUNCIL
MONDAY, FEBRUARY 14, 2022
WORKSHOP, 5:30 PM
CITY HALL AUDITORIUM AND [VIRTUAL](#)
250 N. 5TH STREET**

1. Discussion Topics

- a. Cannabis Regulations - **Council discussion, no public comment will be accepted**

2. City Council Communication

An unstructured time for Councilmembers to discuss current matters, share ideas for possible future consideration by Council, and provide information from board & commission participation.

3. Next Workshop Topics

4. Other Business

What is the purpose of a Workshop?

The purpose of the Workshop is to facilitate City Council discussion through analyzing information, studying issues, and clarifying problems. The less formal setting of the Workshop promotes conversation regarding items and topics that may be considered at a future City Council meeting.

How can I provide my input about a topic on tonight's Workshop agenda?

Individuals wishing to provide input about Workshop topics can:

1. Send an email (addresses found here www.gjcity.org/city-government/) or call one or more members of City Council (970-244-1504);
2. Provide information to the City Manager (citymanager@gjcity.org) for dissemination to the City Council. If your information is submitted prior to 3 p.m. on the date of the Workshop, copies will be provided to Council that evening. Information provided after 3 p.m. will be disseminated

the next business day.

3. Attend a Regular Council Meeting (generally held the 1st and 3rd Wednesdays of each month at 6 p.m. at City Hall) and provide comments during “Citizen Comments.”



Grand Junction City Council

Workshop Session

Item #1.a.

Meeting Date: February 14, 2022

Presented By: Tamra Allen, Community Development Director, John Shaver, City Attorney

Department: Community Development

Submitted By: Staff Cannabis Working Group

Information

SUBJECT:

Cannabis Regulations - **Council discussion, no public comment will be accepted**

EXECUTIVE SUMMARY:

The voters approved referred measures 2A and 2B at the City election on April 6, 2021. The approval of those measures provides the City Council an opportunity to establish tax rates and regulations for the retail cannabis industry in Grand Junction. The February 14, 2022 work session ("Workshop") is for the City Council to discuss and provide direction on the selection process and draft ordinances pertaining to the regulation and licensure of retail cannabis.

BACKGROUND OR DETAILED INFORMATION:

Retail Cannabis Store Selection Process

At the November 1st, 2021 Council workshop as well as the January 10th, 2022 workshop, City Council confirmed directions on zoning, buffering, and taxation. The consensus was to cap cannabis stores at ten (10) city-wide. As more than ten (10) applications are likely to be made, a process for awarding licenses is required.

At the January 10th, 2022 City Council Workshop, the City Council addressed the license award process for cannabis businesses and directed staff to assess and develop possible merit-based selection criteria for further consideration by the Council. Staff has prepared a list of possible merit-based selection criteria for review and discussion. In a merit-based review, each criterion must be measurable and clearly supported/supportable and based on current City policy. In the case where there is a tie in the top ten merit-earners, a supplemental selection process will need to be utilized to select the ten applicants eligible for licensure. In addition, should more than two applicants receive top merit ratings associated with locations within the Horizon Drive

BID boundary, only the two highest merit ratings would be eligible for licensure.

The Council previously explored other methods for awarding licenses, including merit-based, lottery, weighted lottery and sufficiency/randomization (hybrid) approaches. Staff has also included in the packet for review, a conceptual draft ordinance that articulates the full extent of proposed regulations in which the draft ordinance includes the sufficiency/randomization (hybrid) selection methodology. The methodology included in the draft is recommended by Staff, and provides a preferred process over a merit-based process or another selection process.

Draft Cannabis Uses, Licenses and Regulation Ordinance

Utilizing ordinances from across Colorado as a baseline, staff has prepared a draft ordinance to regulate the uses, licensing and regulation of regulated cannabis. The ordinance is intended to be an abstract of the proposed regulations and approaches to awarding licenses and regulating cannabis businesses. At and following the work session, council should review, comment and provide direction on the draft such that it provides direction to staff regarding preparation of the definitive ordinances.

Staff recommends issues such as the Licensing Fee and Application Fee be considered in a separate resolution and the fees should be generally set to reimburse the City for time and resources utilized to intake, review, process, license and renew regulated cannabis stores. The fees should be determined after a process for selection and licensing has been solidified.

Draft Sales and Use Tax Ordinance

At previous workshops, City Council confirmed the sales and use tax and excise tax at a rate of 6 percent. The attached draft ordinance would amend Chapter 3.12, Chapter 3.16 of the GJMC regarding imposition and rate of tax, licensing and reporting, and expenditure of the tax.

Draft Zoning and Development Code Ordinance

At previous workshops, City Council confirmed specific elements of the land use regulations regarding retail cannabis businesses. The draft ordinance amending Title 21, including Chapter 4, Chapter 6 and Chapter 10, includes proposed changes to the use table, location specific limitations (Horizon Drive BID and Downtown), buffering from specific land uses and signage regulations. In general, draft signage regulations allow for retail cannabis stores to erect and display signage consistent with other commercial businesses located within the City.

FISCAL IMPACT:

N/A

SUGGESTED ACTION:

Staff recommends City Council discuss and provide direction with regard to the selection process and criteria and the content of the three working draft ordinances

regarding 1) use, licenses and regulations, 2) sales, use and excise tax, and 3) zoning and signage regulations.

Attachments

1. Merit Criteria Draft - 02.09.22
2. ORD-Cannabis Regulation Draft Ordinance 02.14.22
3. ORD - ZDC Cannabis Draft Ordinance - 021022 vDraft
4. ORD - Draft - Cannabis Tax - 021422
5. Public Comment - High Q

DRAFT
MERIT CRITERIA FOR CITY COUNCIL CONSIDERATION

A selection process with “pass/fail” criteria and other criteria by which the relative merit of the application would be assessed. Those criteria are:

- a. Experience in the cannabis industry (Pass/Fail) - Ability to demonstrate, through a business plan and management experience, the applicant’s ability to operate and develop a business in a highly regulated industry with a cumulative demonstrated experience of at least three (3) years.
- b. Tax Compliance (Pass/Fail) – The Applicant is in full compliance with the taxation rules and regulations of State and City.
- c. Violations and Eligibility (Pass/Fail) – City records and applicant statements demonstrate that no ownership interest greater than 10 percent has a record of prior notices of violations, stop work orders, cease and desist orders or repetitive contact by the City’s Code Enforcement officers or agencies. Applicant is not prohibited from becoming a licensee for any reason identified by State law or regulation.
- d. Financial Viability (Pass/Fail) – Applicant provides a feasible financial plan and demonstrates control of at least \$500,000 in cash and cash equivalents available for deployment to fund business development and operations.
- e. Cannabis Industry Knowledge (Pass/Fail) – Applicant’s business plan demonstrates excellent familiarity with the relevant rules, regulations, and financial structure of the regulated cannabis industry in Colorado.
- f. Complaint Resolution (1 point) – Applicant demonstrates a viable process for conflict and nuisance avoidance and resolution that will provide a high likelihood that complaints regarding the direct impacts from the business operations (e.g. odor, traffic, noise, etc.) will be avoided and/or resolved sufficiently and expediently.
- g. Diversity of Ownership (1 point) - Diversity of ownership (51% ownership by racial minority, women, veterans, or social equity licensee per the State of Colorado Marijuana Enforcement Division).
- h. Local Hiring and Sourcing (3 points) – Applicant demonstrates through the business plan that it will engage in local hiring and procurement practices, including but not limited to plans to hire residents of Mesa County for at least 75% of positions, source a substantial proportion of non-marijuana materials goods and materials from Mesa County businesses, or source a substantial proportion of marijuana products from within Mesa County should such production of marijuana products in Mesa County or the City of Grand Junction be approved in the future.

i. Business Plan (6 points) – Applicant provides a business plan of overall quality and detail to indicate that the business will achieve operational stability and comply with best practices and regulations concerning employment and prevention of crime and nuisance.

j. Community Benefit (7 points) – Applicant submits a plan that demonstrates meaningful and substantial commitment through financial donation, service or similar, to programs, services and organizations that address Social Determinants of Health as defined by the CDC, including economic stability, education access and quality, health care access and quality, neighborhood and built environment, and social and community context. Substantial commitment may, for example, mean i. a minimum of 10% of business profits dedicated to local public causes, and/or, ii. a minimum of 1,000 public service hours, and/or, iii. dedicated assistance to the community, as defined and described by City Council, to support/advance City policy goals.

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RECITALS:

On November 7, 2000, Colorado voters passed Amendment 20 which allows the use of cannabis in the state for approved patients with written medical consent. It allows the possession of up to two ounces of medical cannabis and cultivation of no more than six cannabis plants (three flowering plants) at a time for patients. Amendment 20 does not provide a legal manner for patients to obtain medical cannabis unless the patient grows the cannabis, or the cannabis is grown by the patient's primary caregiver.

On November 16, 2009, City Council, as an exercise of police powers, adopted Ordinance 4392 which declared a twelve-month moratorium on the licensing, permitting and operation of cannabis businesses in the City and provided penalties for any such violation. The moratorium applied to any person or entity applying to function, do business, or hold itself out as a medical cannabis dispensary in the City of Grand Junction, regardless of the person, entity, or zoning.

On June 7, 2010, Governor Ritter signed into law House Bill 10-1284 and Senate Bill 10-109 which, among other things, authorized the City to adopt an ordinance to license, regulate or prohibit the cultivation and/or sale of cannabis (C.R.S. 12-43.3-103(2)). The law also allowed a city to vote, either by a majority of the registered electors or a majority of the City Council, to prohibit the operation of medical cannabis centers, optional premises cultivation operations and medical cannabis infused products manufacturers.

On October 4, 2010, City Council adopted Ordinance 4437 which prohibited the operation of medical cannabis businesses and amended the Grand Junction Municipal Code by adding Section 5.14.010 which prohibited certain uses relating to cannabis. Ordinance 4437 also extended the moratorium established by Ordinance 4392 to January 1, 2011. Prior to Ordinance 4437 becoming effective, a protest petition was filed and found to be sufficient, and Ordinance 4437 was suspended from taking effect. On October 13, 2010, City Council adopted Ordinance 4446 which extended the moratorium to July 1, 2011.

38 At the April 5, 2011, City election, the electorate voted in favor of prohibiting the operation
39 of medical cannabis businesses and the amendment of the Grand Junction Municipal
40 Code by adding a section that prohibited cannabis (referred to as Measure A).

41 On November 6, 2012, Amendment 64 was passed by the voters, amending Article 18 of
42 the Colorado Constitution by adding Section 16 which allowed regulated cannabis stores
43 and made it legal for anyone 21 years or older to buy cannabis at such stores. In addition,
44 Amendment 64 allowed anyone over 21 years of age to legally possess and consume up
45 to one ounce of cannabis. Amendment 64 did not change the Federal law; it still remains
46 illegal under Federal law to produce and/or distribute cannabis.

47 On February 6, 2013, City Council approved Resolution 07-13 adopting cannabis policies
48 for the City and restrictions for persons or entities from applying to function, do business,
49 or hold itself out as a cannabis facility, business, or operation of any sort in the City limits.
50 Later that same year, City Council adopted Ordinance 4599 which prohibited the
51 operation of cannabis cultivation facilities, cannabis product manufacturing facilities,
52 cannabis testing facilities, and regulated cannabis stores. Ordinance 4599 also amended
53 Sections in Title 5, Article 15 of the Grand Junction Municipal Code that prohibited certain
54 uses relating to cannabis.

55 In late 2015, the City, Mesa County and Colorado Mesa University, by and through the
56 efforts of the Grand Junction Economic Partnership (GJEP), were successful in
57 establishing the *Colorado Jumpstart* business development program. One business that
58 was awarded the first *Jumpstart* incentive planned to develop a laboratory and deploy its
59 advanced analytical processes for genetic research and its ability to mark/trace chemical
60 properties of agricultural products, one of which was cannabis. In October 2016, City
61 Council passed Ordinance 4722 which amended Ordinance 4599 and Section 21.04.010
62 of the Grand Junction Municipal Code to allow cannabis testing facilities in the City.

63 On January 20, 2021, the City Council approved Resolution 09-21, the adoption of which
64 referred a ballot question to the regular municipal election on April 6, 2021, to repeal
65 Measure A contingent on and subject to voter approval of taxation of cannabis
66 businesses. A majority of the votes cast at the election were in favor of repealing the
67 moratorium on cannabis businesses and in favor of taxation of cannabis businesses.

68 Accordingly, City Council has determined that certain regulated cannabis businesses,
69 subject to regulations to be adopted by the City, may operate within the City. City Council
70 has acted to begin to amend the Grand Junction Municipal Code to provide rules and
71 regulations for licensing and operating regulated cannabis businesses.

72 City staff and community members, including the Cannabis Working Group, have
73 researched, reviewed, and discussed various approaches to taxation, permitting and
74 regulation of cannabis. Regulations for cannabis uses have been established at the state
75 level with the adoption and implementation of the Colorado Marijuana Code (C.R.S. 44-
76 10-101, *et. seq.*); however, regulation of cannabis uses at the state level alone are not
77 adequate to address the impacts of cannabis on the City.

In the interest of the public health, safety and welfare the City intends to regulate zoning and other impacts of cannabis businesses in a manner that is consistent with constitutional and statutory standards. The City desires to facilitate the provision of quality regulated cannabis in a safe manner while protecting existing uses within the City. Regulation of the manner of operation and location of regulated cannabis businesses will further the health, safety, and welfare of both the public and the customers. Protection of the public health and safety will occur through reasonable limitations on business operations as they relate to air quality, neighborhood, integrations, security for the business and its personnel, and other concerns. Limiting the concentration of any type of business in specific areas will promote high-quality neighborhoods.

Sale of cannabis may impact health, safety, and community resources, and the proposed ordinance is intended to allow certain regulated cannabis businesses such that those businesses will have as minimal an impact and reduce potential negative impacts as reasonably is possible.

This ordinance amends the City's Code to include time, place, and manner restrictions for operating regulated cannabis businesses in the City while protecting the public health and safety through reasonable limitations on business operations. Regulated cannabis businesses may include regulated and/or co-located medical cannabis businesses. Furthermore, this ordinance proposes the imposition of application and/or operating fees to defray some of the City's costs of licensing regulated cannabis businesses.

This ordinance also proposes buffering (distance requirements) of cannabis businesses:

1,000 feet from any private or public elementary, middle, junior high, Colorado Mesa University and Western Colorado Community College; and

500 feet from all public parks or undeveloped park lands as provided by the Parks, Recreation and Open Space Master Plan; and

500 feet from any services for prevention, treatment or recovery from substance use and mental health concerns, as licensed by the Colorado Department of Human Services, Office of Behavioral Health (OBH).

Lastly, this ordinance creates a mechanism for monitoring compliance of regulated cannabis businesses in coordination with the laws of the State of Colorado.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION THAT:

Title 5 Chapter 13 shall read as follows: (Additions to the GJMC are shown in bold face type – deletions or modifications are shown in ~~strike through~~.)

114 **5.13.00 REGULATED CANNABIS**

115 **5.13.010 Purpose and legislative intent; incorporation of state law.**

116
117 **On January 20, 2021, the City Council approved Resolution 09-21, the adoption of**
118 **which referred a ballot question to the regular municipal election on April 6, 2021,**
119 **to repeal Referred Measure A contingent on and subject to voter approval of**
120 **taxation of cannabis businesses.**

121 **With such authority, City Council intends to regulate the use, possession,**
122 **cultivation, production, and distribution of cannabis in a manner that is consistent**
123 **with Article XVIII, Sections 14 and 16 of the Colorado Constitution (also known as**
124 **Amendment 64) and the Colorado Marijuana Code, C.R.S. § 44-10-101, et seq. With**
125 **the adoption of this Chapter, any provisions of the City's Code that conflicts with**
126 **this Chapter shall be superseded.**

127 **Article XVIII, Section 16(5)(g) of the Colorado Constitution authorizes a system of**
128 **state licensing for businesses engaging in the regulated sale of cannabis,**
129 **collectively referred to as "regulated cannabis establishments". This provision**
130 **allows a municipality within its jurisdiction to prohibit licensing of regulated**
131 **cannabis establishments; regulate the time, place and manner in which regulated**
132 **cannabis establishments may operate; and limit the total number of regulated**
133 **cannabis establishments.**

134
135 **The authority of localities to prohibit or regulate regulated cannabis**
136 **establishments within their respective jurisdictions, including the authority to**
137 **engage in local licensing of cannabis establishments is also provided in various**
138 **provisions of the Colorado Marijuana Code. The Colorado Marijuana Code affords**
139 **municipalities the option to determine whether to license certain regulated**
140 **cannabis establishments within their respective jurisdictions. This Chapter**
141 **affirmatively authorizes licensing and regulating cannabis related businesses in**
142 **the City of Grand Junction and to designate a local licensing authority to issue and**
143 **process applications submitted for such licenses within the City.**

144
145 **This Chapter is adopted pursuant to the constitutional and statutory authority**
146 **referenced above as well as the City's home rule authority to adopt and enforce**
147 **ordinances under its police power all in order to preserve the public health, safety**
148 **and general welfare. By adopting this Chapter, the intent is to implement provisions**
149 **of the Colorado Marijuana Code and any rules and regulations thereunder except**
150 **to the extent that more restrictive or additional regulations may be set forth in**
151 **herein.**

Further, the purposes of this Chapter are to:

- (1) provide time, place, and manner restrictions for operating a regulated cannabis business in the City;
- (2) protect public health and safety through reasonable limitations on business operations as they relate to noise, air quality, security for the business and its personnel, and other health and safety concerns;
- (3) promote high quality neighborhoods by limiting the concentration of regulated cannabis businesses in specific areas;
- (4) impose fees to defray some of the costs to the City of licensing regulated cannabis businesses;
- (5) adopt a mechanism for monitoring compliance with the provisions of this Chapter;
- (6) create regulations that address the particular needs of the residents, the businesses, and the City and coordinate with laws enacted by the State of Colorado regarding cannabis; and,
- (7) issue regulated cannabis business licenses only to Applicants that demonstrate the intent and capability to comply with the law.

This Chapter is to be construed to protect the interests of the public over the interests of the regulated cannabis businesses. Operation of a regulated cannabis business is a revocable privilege and not a right in the City. There is no property right for any person and/or business to have a regulated cannabis license in the City.

Nothing in this Chapter is intended to promote or condone the production, distribution, or possession of cannabis in violation of any applicable law.

5.13.011 Applicability.

- (a) This Chapter is known and may be cited as the “City of Grand Junction Regulated Cannabis Code” or “Code.” Reference to the City of Grand Junction Regulated Cannabis Code, Code or Chapter and the applicable section(s) thereof shall be sufficient when citing the provisions of this hereof in any legal document, including but not limited to, summons, subpoena, pleading, summons and compliant, and memorandum.

(b) This Chapter, together with all other titles and chapters of the Grand Junction Municipal Code (hereinafter referred to as "GJMC"), shall govern all applications submitted for licensing of any regulated cannabis business in the City on and after the effective date.

5.13.012 Applicability of state laws and other laws.

(a) Except as otherwise specifically provided herein, this Chapter incorporates and adopts the requirements and procedures set forth in the Colorado Marijuana Code and the provisions of the Colorado Rules and Regulations promulgated thereunder, as amended, relating to the definition of terms, licensing, sales, hours of sale, records, inspection, unlawful acts, and all other matters pertaining to regulated cannabis, as set out in full therein and herein. In the event of any conflict between the provisions of this Chapter and the provisions of the Colorado Marijuana Code or any other applicable state or local law, the more restrictive provision shall control. Licensees shall comply with and conduct their business in compliance with all applicable state and local laws, rules and regulations, and the terms and conditions of their license. Noncompliance with any applicable state or local laws, rules or regulations shall be grounds for revocation or suspension of any license issued hereunder and/or imposition of fines and other allowable sanctions.

(b) Compliance with any applicable state law or regulation shall be deemed additional requirements for issuance of any license and conduct of any business under this Chapter, and noncompliance with any applicable law or regulation shall be grounds for revocation or suspension of any license issued hereunder and/or imposition of fines and other allowable sanctions.

(c) If the state prohibits the sale or other distribution of cannabis through regulated businesses, any license issued hereunder shall be deemed immediately revoked by operation of law.

5.13.013 Definitions.

The definitions set forth in Article XVIII, Subsections 14(2) and 16(2) of the Colorado Constitution, as well as the definitions provided by the Colorado Marijuana Code, the Colorado Code of Regulations, and the Department of Revenue Regulated Marijuana Enforcement Division Rules and regulations as amended, are adopted herein unless by reference specifically amended hereby.

239 **“Advertise” means the act of drawing the public’s attention, whether in print, signs,**
240 **or electronic means, to a regulated cannabis business in order to promote the sale**
241 **of cannabis by the business.**

242
243 **“Affiliated entity” or “affiliate” means a person as defined herein, having ownership**
244 **or any level of control in common with an entity, in whole or in part, including**
245 **without limitation, an entity’s parent corporation, franchisor, licensor and any**
246 **subsidiary(ies) or affiliates or such corporation(s). Affiliate also means a person**
247 **using the same trade name as another person.**

248
249 **“Appealing to minors” means any display on the internet, by audio, in print on a**
250 **sign, or similar presentation visible to individuals under 21 years of age that**
251 **contains visual or audio or print depictions of cartoon characters, caricatures,**
252 **consumable products, individuals that seem under 21 years of age or engaging in**
253 **activities not typical of adults. Visual, audio or print depictions of animals may be**
254 **allowed so long as they do not violate other restrictions in the GJMC.**

255
256 **“Application fee” shall mean the fee paid to the City by each Applicant at the time**
257 **of submitting an application to the City.**

258
259 **“Applicant” shall mean any person or entity who has applied for a license or**
260 **renewal of a license issued pursuant to this Chapter. If the Applicant is an entity**
261 **and not a natural person, Applicant shall include all persons who are the members,**
262 **managers, officers, directors, and shareholders of such entity.**

263
264 **“Cannabis”, also known as marijuana, shall have the same meaning as the term**
265 **“usable form of marijuana” as set forth in Article XVIII, Section 16(2)(f) of the**
266 **Colorado Constitution or as may be more fully defined in any applicable State law**
267 **or regulation. “Marijuana” may alternatively be spelled “marihuana”.**

268
269 **“Cannabis business” shall means regulated cannabis business as defined in this**
270 **Chapter.**

271
272 **“Cannabis operator” means a medical cannabis business operator or a retail**
273 **cannabis business operator.**

274
275 **“Cannabis paraphernalia” or “paraphernalia” shall mean devices, contrivances,**
276 **instruments and paraphernalia for inhaling or otherwise consuming regulated**
277 **cannabis, including, but not limited to, rolling papers, related tools, water pipes**
278 **and vaporizers.**

279
280 **“Cannabis product” means “medical cannabis product” or “regulated cannabis**
281 **product”.**

282
283 **“Cannabis product manufacturer” means a medical cannabis products**
284 **manufacturer or a retail cannabis products manufacturer.**
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286 **“Cannabis testing facility” means a medical cannabis testing facility or a retail**
287 **cannabis testing facility.**
288
289 **“City Attorney” means the City Attorney or the City Attorney’s designee.**
290
291 **“City Manager” means the City Manager or the City Manager’s designee.**
292
293 **“Colorado Medical Marijuana Code” shall mean Title 44, Article 11, C.R.S. and any**
294 **rules or regulations promulgated thereunder.**
295
296 **“Colorado Marijuana Code” shall mean Title 44, Article 10, C.R.S. and any rules or**
297 **regulations promulgated thereunder.**
298
299 **“Company material” means any information printed or transmitted electronically**
300 **that includes the name and logo of a particular cannabis business(es) and**
301 **promotes the business or describes cannabis or cannabis product distributed by**
302 **the business(es). Company material may include promotion of the business to**
303 **potential employees over the age of 21, or investors, or instructions for use of**
304 **any cannabis or cannabis products distributed by the business(es).**
305
306 **“Coupon” means a printed voucher or token entitling the holder to a discount for**
307 **a particular product or service. Coupon does not include showing a government-**
308 **issued verification of age or military status, or registration for a charitable event,**
309 **or similar item the showing of which, without providing a separate printing to the**
310 **business, entitles the holder to a discount for a particular product or service.**
311
312 **“Distribution” or “distribute” means the actual, constructive, or attempted transfer,**
313 **delivery, sale, or dispensing to another, with or without remuneration.**
314
315 **“Educational material” means materials prepared by a governmental or non-profit**
316 **entity that are designed to provide information, facts, instructions, and warnings**
317 **related to the legal use or consumption of cannabis and cannabis products.**
318 **Educational materials do not include arguments for or against the legalization of**
319 **cannabis or encourage the use of cannabis or advertisements, including the name**
320 **and logo for any cannabis business.**
321
322 **“Entity” means a domestic or foreign corporation, cooperative, general**
323 **partnership, limited liability partnership, limited liability company, limited**
324 **partnership, limited liability limited partnership, limited partnership association,**

nonprofit association, nonprofit corporation or any other organization or association that if formed under a statute or common law of the state of Colorado or any other jurisdiction as to which the laws of Colorado or the laws of any other jurisdiction govern(s) relations among owners and between the owners and the organization or association and that is recognized under the laws of the state of Colorado or the other jurisdiction as a separate legal entity.

“Fermented malt beverage” shall mean the same as referenced in Chapter 5.04.010 of the GJMC.

“Financier” means any person who lends money or otherwise provides assets to any person applying for license under this Chapter. If a financier is an entity rather than an individual, the same disclosure shall be required for each entity with an ownership interest until a managing member that is a natural person is identified. Financier shall not include a bank, savings and loan association, credit union, or industrial bank supervised and regulated by an agency of the state or federal government, or any person in the business of leasing equipment or cannabis business for which the rental amount does not include any percentage of the business or its profits, or any person that has been qualified as a beneficial owner (as defined by the Colorado Marijuana Code).

“Financial interest” shall mean any ownership interest(s).

“Good cause”, for the purposes of approving, refusing or denying the issuance or renewal of a license, means:

- a. The Licensee or Applicant has violated, does not meet, or has failed to comply with any terms, conditions, or provisions of the Colorado Marijuana Code, the City Code, any rule and regulation adopted pursuant thereto, or any supplemental relevant state or local law, rule or regulation related to the cultivation, processing, manufacture, storage, sale, distribution, transportation, testing, and research, or consumption of any form of cannabis;
- b. The Licensee or Applicant has failed to comply with any special term or condition placed on the license by order of the state licensing authority or the local licensing authority;
- c. Evidence of the Licensee’s licensed premises have been operated in a manner that adversely affects the public health, safety or the general welfare of the City or the immediate neighborhood where the business is located, which evidence may include a continuing pattern of violations of the Colorado Marijuana Code, the City’s Code, or terms

and conditions of a license issued pursuant to this Chapter, a continuing pattern of unlawful or violent activity occurring in the location and in association with the operation of the business; or

- d. Evidence the Applicant or Licensee, or any officer, director, owner, manager, agent or employee of the Applicant or Licensee is not of good moral character.

“Good moral character” means an individual who has a personal history demonstrating honesty, fairness, and respect for the rights of other and for conformance to the law which may include considerations of whether an individual has:

- a. Ever had a professional or occupation license denied, suspended, or revoked;
- b. Ever had a business or sales tax license denied, suspended, or revoked;
- c. Ever surrendered, been denied, or had any type of cannabis related license or permit placed on an administrative hold, suspended or revoked;
- d. Ever been denied any type of cannabis related business license;
- e. Ever had a business temporarily or permanently closed for failure to comply with any tax, health, building, fire, zoning or safety law;
- f. Ever had any administrative, civil or criminal finding of delinquency for failure to file or failure to pay state or local sales or use taxes or any other taxes;
- g. Ever been convicted of or pled guilty or no contest to a crime of moral turpitude; or
- h. Within the previous five years been convicted of any misdemeanor, petty offense or any local ordinance violation related to the cultivation, processing, manufacture, storage, sale, distribution, transportation, testing, research, or consumption of any form of cannabis, drug or controlled substance; or within the previous five years been convicted of a non-drug related felony; or, at any time, been convicted of a felony related to the cultivation, processing, manufacture, storage, sale,

distribution, transportation, testing, research, or consumption of any form of cannabis, drug or controlled substance.

“Handbill”, “leaflet” or “flyer” means a flat or folded sheet of printed material that is a notice, advertisement, or announcement, usually for distribution by hand, for free, either directly to an individual or by placement on vehicles or other locations. Handbill, leaflet, or flyer does not include educational materials without the name or logo of a cannabis business, or information made available within the licensed premises of a cannabis business.

“Immature plant” means a nonflowering cannabis plant that is not required by the Colorado Marijuana Enforcement Division to have a RFID tag. In no event shall a plant be considered an immature plant if it is taller than eight inches and wider than eight inches.

“In-charge employee” means the individual designated by the owner of the cannabis business as the person responsible for all operations of the business in the absence of the owner from the licensed premises. In-charge employees shall have access to lock and unlock doors, lock and unlock safes, arm and disarm the alarm, have access to the video surveillance equipment and who can operate and access past footage and produce still color photographs from the on-site, as well as the off-site video surveillance equipment upon request.

“Incidental to sponsorship of charitable events” means the printing of the names of all sponsors of a particular charitable event by the event organizer on advertisements, banners, clothing, programs, or similar items. Incidental to sponsorship of charitable events does not include the placement of a booth(s) or distribution of material(s) that does not list or is for the use of all sponsors of the event.

“License” shall mean to grant a revocable privilege to lawfully operate in the City a cannabis related business activity authorized pursuant to the Colorado Marijuana Code and this Chapter.

“License fee” shall mean that fee set and established by Resolution of City Council and paid annually to the City by each Licensee.

“Licensed premises” means the premises specified in an application for a license or permit authorized pursuant to the Colorado Marijuana Code and this Chapter, which are owned or in the legal possession of the Licensee and within which the Licensee is authorized to cultivate, manufacture, distribute, research, sell, store, transport, or test cannabis, cannabis products, and cannabis concentrates in accordance with all applicable laws.

453
454 **“Licensee” means any person licensed or granted a permit pursuant to the**
455 **Colorado Marijuana Code or this Chapter, including the cannabis business named**
456 **on the cannabis business license and all individuals named in the cannabis**
457 **business license application or later reported to the City, including without**
458 **limitation, owners, managers, financiers, and individuals owning any part of the**
459 **entity that holds a financial or ownership interest in the cannabis business.**

460
461 **“Liquid assets” mean assets that can be readily converted into cash and includes**
462 **assets that will be placed directly into the cannabis business. Liquid assets**
463 **include, but are not limited to, the following: funds in checking or savings**
464 **accounts, certificates of deposit, money market accounts, mutual fund shares,**
465 **publicly traded stocks, United States savings bonds, furniture and equipment,**
466 **packaged cannabis, and related products and inventory to be transferred to the**
467 **cannabis business. Liquid assets do not mean household items, vehicles,**
468 **cannabis plants, and real property and improvements thereto.**

469
470 **“Local Licensing Authority” also known as “Cannabis Licensing Authority”**
471 **(“Authority”) means an authority designated by the City Council.**

472
473 **“Mall” means Mesa Mall located at 2424 US Highway 6, Grand Junction, CO 81505.**

474 **“Malt, vinous, and spiritous liquor” has the same meaning as defined in the**
475 **Colorado Liquor Code (Title 44, Article 3, C.R.S) or in the Colorado Beer Code (Title**
476 **44, Article 3, C.R.S.)**

477 **“Manager” means:**

478 **a. A member of a limited liability company in which management is not**
479 **vested in managers rather than members;**

480 **b. A manager of a limited liability company in which management is**
481 **vested in managers rather than members;**

482 **c. A member of a limited partnership association in which management**
483 **is not vested in managers rather than members;**

484 **d. A manager of a limited partnership association in which management**
485 **is vested in managers rather than members;**

486 **e. A general partner;**

487 **f. An officer or director of a corporation, a nonprofit, a cooperative, or a**
488 **limited partnership association; or**

489 g. Any person whose position with respect to an Entity, as determined
490 under the constituent documents and organic statutes of the Entity,
491 without regard to the Person's title, is the functional equivalent of any of
492 the positions described in this definition.

493 "Minor" means a person under 21 years of age.

494 "Modification of premises" means a change to a regulated cannabis business that
495 requires a building or other permit from the City or changes any part of the plans
496 required as part of the application for the cannabis business license. Modification
497 of premises does not include routine maintenance, including replacement of
498 lightbulbs or filters, painting, cleaning or replacement of non-mechanical items
499 such as windows and flooring so long as the maintenance does not result in a
500 change to the plans required as part of the application.

501 "Operating fees" means that fee(s) set and established by Resolution of City
502 Council and paid annually to the City by each Licensee. Operating fees may be
503 charged by the City for costs including but not limited to inspection,
504 administration, and enforcement of cannabis businesses authorized pursuant to
505 the Colorado Constitution, the Colorado Marijuana Code, this Code, and any of
506 the rules and regulations adopted pursuant thereto.

507 "Owner" means the person or persons whose beneficial interest in a regulated
508 cannabis business bears a risk of loss other than an insurer, has an opportunity
509 to gain profit from the operation or sale of the business and has a controlling
510 interest in a cannabis businesses, business entity or license, and includes any
511 other person(s) that qualifies as an owner pursuant to state law, rules or
512 regulations.

513 "Person" shall mean a natural person, partnership, association, company,
514 corporation, limited liability company or other organization or entity or a manager,
515 agent, owner, officer or employee thereof.

516 "Place open to the general public" means any property owned, leased, or used by
517 a public entity, and any place on private property open to the public, common area
518 of buildings, private clubs, vehicles, those portions of any private property upon
519 which the public has an express or implied license to enter or remain, and any
520 place visible from such places.

521 "Possess" or "possession" means having physical control of the premises in
522 which an object is located or having the power and intent to control an object,
523 without regard to whether the one in possession has ownership of the object.
524 Possession may be held by more than one person at a time. Use of the object is
525 not required for possession. The owner of a regulated cannabis business shall be
526 considered in possession of the regulated cannabis business at all times. The
527 manager of a regulated cannabis business shall be considered in possession of

528 the regulated cannabis business at all times that the manager is on the premises
529 of the business or has been designated by the owner as the manager in the
530 absence of the owner in accordance with this Chapter.

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

533 “Primary home” means that home or place in which a person’s habitation is fixed
534 and to which the person, whenever absent, has the present intention of returning
535 after a departure or absence therefrom, regardless of the duration of such
536 absence. A “primary home” is a permanent building or part of a permanent
537 building and may include, by way of example, a house, condominium, apartment,
538 room in a house or manufactured housing. No rental property, a vacant house or
539 cabin or other premises used solely for business purposes shall be considered a
540 primary home.

541 “Rehabilitation center” means any facility(ies) or transitional residential treatment
542 facility(ies) operating after the effective date of this Chapter for prevention,
543 treatment or recovery from substances and mental health concerns as licensed by
544 the Colorado Department of Human Services, Office of Behavioral Health (OBH).
545 licensed by the Colorado Department of Human Services.

546 “Restricted area” means the portion of a cannabis business within which the
547 “Licensee” defines on its application it intends to distribute, possess, or produce
548 regulated cannabis and which area is clearly identified as the restricted area on the
549 floor plan submitted with the cannabis business license application for the
550 business.

551 “Regulated cannabis business” means:

552 (a) any person that produces, distributes, possesses, tests or makes available
553 more than six cannabis plants or one ounce of cannabis; any person that
554 sells any amount of cannabis; or

555 (b) any person who possesses cannabis openly or publicly.

556 The term regulated cannabis business shall not include the private cultivation,
557 possession, or use within a person’s residence of no more than:

558 (a) six plants in an enclosed, locked space, or

559 (b) one ounce of cannabis; or

560 (c) the cannabis derived from no more than six plants on the premises where
561 the plants were grown if the plants were grown in an enclosed, locked space.

562 “Regulated cannabis plant” means a cannabis seed that is germinated and all
563 parts of the growth therefrom, including, without limitation, roots, stalks, and
564 leaves. Cannabis plant shall include immature plants except where specifically
565 exempted in this Code. For purposes of this Chapter, the portion of regulated
566 cannabis plant harvested from the plant or converted to a usable form of regulated
567 cannabis for medical use is not considered part of the plant upon harvesting.

568 “Safe” means the Grand Junction Police Department may approve security devices
569 such as vaults and strong rooms that are functionality equivalent to safes.

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

573 5.13.014 License Required.

574
575 (a) It shall be unlawful for any person to engage in any form of business or
576 commerce or activity involving cultivation, processing, manufacturing,
577 storage, sale, distribution, transportation, testing, research or consumption
578 of any form of cannabis or cannabis products other than those forms of
579 business and commerce activities that are expressly contemplated by
580 Sections 14 and 16 of Article XVIII of the Colorado Constitution, Colorado
581 Marijuana Code, this Code, or other applicable provisions of the GJMC.

582
583 (b) It shall be unlawful for any person to operate a regulated cannabis
584 business in the City without a license to operate issued pursuant to the
585 requirements of this Chapter while concurrently holding a license in good
586 standing from the state and in compliance with any and all applicable laws.

587
588 (c) No regulated cannabis business shall operate without obtaining any other
589 license(s) or permit(s) required by any federal, state, or local law, by way of
590 example, a regulated sales and use tax license, a retail food business
591 license, or any applicable zoning or building permit. No two or more
592 different regulated cannabis businesses may be treated as one premise
593 unless approved as co-located businesses. Retail and medical cannabis
594 may be co-located; however, if not co-located medical licenses will not be
595 separately considered in accounting for the 10 (ten) license cap.

596
597 (d) The license(s) required to lawfully conduct business must be in full force
598 and effect, all applicable fees and taxes have been paid in full, and all
599 conditions of the license application be satisfied in order to conduct
600 business. Each and every license applies to the person/entity named
601 thereon and the activity(ies) authorized by the license and the location

where the sale and/or possession occurs. Failure to maintain a current, valid license shall constitute a violation of this Chapter.

(e) It shall be unlawful for any person to exercise any of the privileges granted by a License other than the person(s) issued the License.

(f) It shall be unlawful for any person(s) granted a license to allow any other person to exercise any privilege granted under the License.

(g) It shall be unlawful for any person to operate any cannabis business in the City without a License issued by the City and the State licensing authorities pursuant to the Colorado Marijuana Code, this Chapter and other applicable provisions of the GJMC and applicable law.

(h) The issuance of a City license pursuant to this Chapter does not create an exception, defense, or immunity to any person in regard to any potential criminal liability the person may have for the production, distribution, storage, transportation or possession of cannabis.

(i) All persons who are engaged in or who are attempting to engage in the distribution, and/or sale of regulated cannabis in any form shall do so only in strict compliance with the terms, conditions, limitations, and restrictions in Section 14 and 16 of Article XVIII of the Colorado Constitution, state law, the Colorado Marijuana Rules, the GJMC , and all other laws, rules, and regulations.

5.13.015 Licensing Authority (Cannabis Licensing Authority).

(a) For the purpose of regulating and controlling the licensing and the sale of regulated cannabis in the City, there is hereby created a local licensing authority appointed by the City Council, hereafter referred to as Authority.

(b) The Authority shall have and is vested with authority to grant or to refuse a license application or renewal, as well. The Authority may order special terms and conditions on licenses in the event of an emergency or as temporarily required to protect the public health, safety and wellbeing without the need for a public hearing. Notice of such action and for a public hearing before the Authority on the matter shall be provided to the Licensee.

(c) The Authority shall have all the powers provided in this Chapter, and as set forth in C.R.S. 44-10-301 *et. seq.* and the Colorado Marijuana Rules, and the regulations promulgated thereunder.

- 642 (d) The Authority may promulgate such rules and regulations as it deems
643 necessary for the proper administration and enforcement of this Chapter,
644 provided that the same are not in conflict with the Colorado Marijuana
645 Code, Colorado Constitution, and the Colorado Department of Revenue
646 Enforcement Rules.
647
- 648 (e) The Authority may exercise all other powers and duties as are set forth in
649 the Colorado Marijuana Code, the Colorado Constitution, the Colorado
650 Department of Revenue Marijuana Enforcement Division Rules, the GJMC
651 and any rule or regulation adopted pursuant thereto.
652
- 653 (f) Under any and all circumstances in which state law requires
654 communication to the City by the state licensing authority or any other
655 state agency in regard to any license authorized by this Chapter, or in
656 which state law requires any review or approval by the City of any action
657 taken by the state licensing authority, the exclusive government
658 department for receiving such communications and granting such
659 approvals shall be the Authority.
660
- 661 (g) The Authority may issue subpoenas to require the presence of persons and
662 the production of papers, books and records necessary to the
663 determination of any hearing the Authority is authorized to conduct.
664
- 665 (h) The Authority may suspend, or revoke licenses granted under this Chapter
666 for good cause or as set forth in this Chapter or as applicable law may
667 provide.
668
- 669 (i) The Authority may summarily suspend a license issued pursuant to this
670 Chapter without notice pending any prosecution or public hearing for a
671 period not to exceed 15 days when the Authority determines a Licensee or
672 an agent or employee of the Licensee has violated the Colorado Marijuana
673 Code, the Colorado Department of Revenue Enforcement Division
674 Marijuana Rules, the Colorado Constitution, the City's Code, or any rule
675 and regulation related to the storage, sale, distribution, transportation,
676 testing, or consumption of any form of cannabis, or when the public health,
677 safety or wellbeing imperatively requires emergency action, and
678 incorporates such findings in the notice for a public hearing before the
679 Authority on the matter.
680
- 681 (j) Nothing in this Chapter shall be construed to limit a law enforcement
682 agency's ability to investigate unlawful activity in relation to a License
683 issued pursuant to this Code.

684
685 (k) A Hearing Officer for the Authority shall be appointed by and serve at the
686 pleasure of the City Council.
687

688 (l) The Hearing Officer may be removed by the City Council for nonattendance
689 to duty or for cause. If the Hearing Officer fails to attend three (3)
690 consecutive meetings of the Authority, he/she shall be removed from the
691 Hearing Officer position unless the City Council excuses any such
692 absences.
693

694 (m) Duties of the Hearing Officer. The Hearing Officer shall:
695

- 696 1. Conduct all hearings required under this Chapter, rules and regulations,
697 and codes construing and implementing the same.
698
- 699 2. Conduct all hearings for initial licenses, renewal of licenses, for
700 proposed changes of ownership of licenses and changes of the
701 corporate structure of license, and for proposed changes of location of
702 licensed premises or modification of premises.
703
- 704 3. Conduct all hearings brought under such codes when violations of the
705 codes or the regulations under the codes have been alleged to have
706 occurred and to impose penalties against Licensees in the manner
707 provided by this Chapter on its own motion or on complaint by the City
708 Attorney for any violation by the Licensee after investigation and public
709 hearing at which the Licensee shall be afforded an opportunity to be
710 heard.
711
- 712 4. Promulgate rules and regulations concerning the procedures for
713 hearings before the Authority.
714
- 715 5. Require any Applicant or Licensee to furnish any relevant information
716 required by the Authority.
717
- 718 6. Grant or deny motions, make findings and orders, administer oaths and
719 issue subpoenas to require the presence of persons and the production
720 of papers, books and records at any hearing which the Authority is
721 authorized to conduct.
722

723 (n) Hearing procedures. The Hearing Officer may establish such procedures
724 and local rules to be followed in actions before her/him. Such procedures
725 shall include the following:
726

- 727 1. Control the mode, manner and order of all proceedings and hearings.
728
729 2. The adoption of rules, procedures, and policies for its own proceedings
730 and for filing applications and requests.
731
732 3. The adoption of application forms and submission requirements,
733 including a requirement that applications, complaints and other
734 documents be filed in a digital format approved by the Authority and to
735 refuse applications, complaints and other documents not filed in the
736 approved digital format.
737
738 4. To perform any act that the Authority is authorized to perform by law.
739
740 5. To promulgate such rules and regulations deemed necessary to
741 properly administer and enforce this Chapter, and to exercise all other
742 powers and duties as set forth in this Chapter, as well as those set forth
743 in the Colorado Marijuana Code and Subsection 5(f) of Section 16 of
744 Article XVIII of the Colorado Constitution. The Authority shall provide all
745 proposed rules and subsequent changes thereto, to City Council for
746 approval by Resolution.
747
748 (o) Powers in the conduct of hearings. The Hearing Officer shall conduct
749 hearings under and in accordance with this Chapter, local rules and
750 procedures, and the Colorado Marijuana Code.
751
752 (p) Contempt. In the event that any person, in the immediate presence of the
753 Authority or within its sight or hearing, while the Authority is in session
754 during a hearing, commits a direct contempt of the Authority by speech,
755 gesture or conduct which disobeys a lawful order of the Authority, shows
756 gross disrespect to the Authority tending to bring the Authority into public
757 ridicule, or substantially interferes with the Authority's proceedings, the
758 Authority may hold such person in contempt. Contemptuous conduct by
759 any principal, registered manager or employee shall be imputed to the
760 Licensee. The Authority may impose the following sanctions for contempt:
761
762 1. Removal of the person committing the contempt from the proceedings,
763 the hearing room and its environs;
764
765 2. Public censure, which shall be made a matter of the Licensee's record
766 and may be used as an aggravating factor in determining any fine,
767 suspension, revocation or renewal;
768

- 769 3. A prohibition against the individual or the Licensee introducing into the
770 record testimony, documents, exhibits or other evidence;
771
772 4. An order striking, disregarding and refusing to consider pleadings,
773 applications, documents, objections, testimony, exhibits or other
774 evidence or arguments already introduced by such person;
775
776 5. A fine, enforced by suspension of the License until the fine is paid;
777
778 6. Default of any motion, compliant or other action then pending against
779 the Licensee; and/or
780
781 7. Denial of any application by the Licensee then pending before the
782 Authority.
783

784 (q) Determinations with respect to hearings.
785

- 786 1. The Hearing Officer shall make his/her determination after hearings in
787 accordance with this Code, the Colorado Marijuana Code and
788 established legal principles. The decision of the Hearing Officer shall be
789 final, and appeal from that decision shall be to the District Court of the
790 21st Judicial District.
791
792 2. Actions taken by the Authority are subject to review by the courts
793 pursuant to Rule 106 of the Colorado Rules of Civil Procedure. Any
794 person applying to the Court for review shall be required to pay the cost
795 of preparing a transcript of proceedings before the Authority whenever
796 such a transcript is necessary for purposes of an appeal.
797

798 5.13.016 City Manager; Powers and Duties – Licensing.
799

- 800 (a) The City Manager shall serve as the secretary of the Authority and shall
801 provide or cause to be provided the necessary administrative and
802 reporting services for the Authority. The City Manager and City Attorney
803 shall attend all meetings of the Authority. All public notices required by
804 this Chapter and by C.R.S. 44-10-101, *et seq.*, and the Colorado Marijuana
805 Rules, as amended, and the regulations promulgated thereunder, shall be
806 accomplished by the City Manager.
807
808 (b) The City Manager shall receive all applications for licenses and permits
809 and, upon receipt of full payment of fees as are required by state law and
810 by this Chapter, and satisfaction of the preconditions of the licensure,
811 shall issue all licenses.

5.13.017 Application process/requirements.

(a) Applications. All applications for any license authorized by this Chapter shall be submitted to the City Manager upon forms provided by the Authority and shall include supplemental materials as required by this Chapter, the Colorado Marijuana Code, and any rules and regulations adopted pursuant thereto. To the extent any of the foregoing materials have been included with the Applicant's state license application and forwarded to the City by the State, the Authority may rely upon the information forwarded by Applicants without requiring resubmittal of the same materials in conjunction with the local license application.

(b) The Authority may, at the Authority's discretion, require additional information and/or documentation for the consideration of the application as it may deem necessary to enforce the requirements of the Colorado Marijuana Code and this Chapter.

(c) The general procedures and requirements of licenses, as more fully set forth in Chapter 5.04 of the Grand Junction Municipal Code, shall apply to regulated cannabis business licenses. To the extent of conflict between the provisions of this Chapter and Chapter 5.04, the provisions of this Chapter shall control for regulated cannabis licenses.

(d) Initial Application.

1. Complete Application. The City Manager shall receive all Applications for a License authorized by this Chapter. The City Manager review and, if demonstrated from the Application, find an Application to be complete if the Applicant, on forms provided by the City, provides: (a) materials and information demonstrating that all requirements for licensure can or will be met by the Applicant at the time of licensure, provided in section 05.13.025 of this Code.

2. No person or entity, to include an affiliate(s)/affiliated entity, shall apply for more than one license for any location in the City.

3. The Applicant shall provide a zoning and buffering verification from Community Development Department Director that states the location proposed for licensing complies with any and all zoning and land use laws of the City, and any and all restrictions on location set forth in this Code. If the Director makes a determination that the proposed license location would be in violation of any zoning law or other restriction on location set forth in the GJMC and/or any Administrative Regulation(s) construing the same, then the Director shall, no later than 20 days from the date the Applicant requested the zoning and buffering verification,

notify the Applicant in writing that the proposed license location cannot be verified to be in compliance. As provided by the GJMC, the Applicant may appeal the Directors decision.

4. The Applicant shall provide affirmation in in writing that the Applicant, the Licensee, the officers, directors, owners, agents, employees or any person having a direct or indirect financial interest of 10% in the business are of good moral character in accordance with the standards and procedures set forth in the Colorado Marijuana Code, this Chapter and the rules and regulations adopted pursuant thereto.

5. The Applicant provides an application for only one license at one location for each class of cannabis business license authorized by this Chapter. A co-located medical and retail cannabis business location shall be deemed one license. A location for a license shall be established and determined by lawful street addressing. A unit(s) in a building that is not separately, legally created and addressed is(are) not a separate location(s) located regulated and medical cannabis business.

6. The Applicant shall provide affirmation in writing that it has and will satisfy and continuously meet, if a license is awarded, all the terms, conditions, provisions, and requirements imposed upon the Applicant or the Licensee by the applicable provisions of the Colorado Marijuana Code, the City's Code, and all the rules and regulations adopted pursuant thereto, and all applicable building, fire, health or zoning, codes, ordinances, rules or regulations adopted pursuant thereto related to the cultivation, processing, manufacture, storage, sale, distribution, testing, research, transporting, or consumption of any form of cannabis.

7. The Applicant shall provide affirmation in writing the license application contains no fraudulent, misrepresented, or false statements of a material or relevant fact.

8. The Applicant shall pay all applicable application and licensing fees.

9. The Applicant provides affirmation in writing that it or the Licensee is not overdue on his/her/its payment of any taxes, fines, interest, penalties or collection costs assessed against or imposed upon such Applicant in any business matters, affairs or dealings of the Applicant in any state, county, municipality on which the Applicant conducts business.

10. The Applicant provides affirmation in writing the Applicant officers, directors, other owners, any person having a direct or indirect financial interest in the business, and agents or employees of the Applicant are of Good Moral Character considering the factors in C.R.S. § 24-5-101(2);

890 have no felony convictions in the last five years, no drug related local
891 ordinance, petty offense or misdemeanor convictions in the last five
892 years, and no drug related felony convictions.

893 11. The Applicant provides affirmation in writing, the Applicant's
894 principal officers, directors, members, or owners who now, or at any time
895 in the past, have had 10% or more ownership in any cannabis business
896 have not had, or the business has not had, a cannabis license suspended
897 or revoked by the State of Colorado or any other state, or any other
898 jurisdiction's local authority or other controlling authority;

899 12. The Applicant provides affirmation in writing that the Applicant will,
900 if selected for licensure, make all the improvements to the licensed
901 premises as required by the GJMC or will have a plan and timeline to
902 improve the proposed license location so that the cannabis business
903 operations shall begin within six months of the issuance of the License.

904 13. The Applicant affirms in writing, the Applicant is not a sheriff, deputy,
905 police officer, prosecuting officer, or an officer or employee of the state;
906 and,

907 14. The Applicant affirms in writing, the Applicant is not a person whose
908 authority to be a primary caregiver as defined in § 25-1.5-106(2), C.R.S.,
909 has been revoked by the state health agency.

910 (e) Incomplete Application. Upon review of an application, the City Manager
911 shall provide a notice of initial determination to the Applicant in writing
912 as to whether the Applicant's application is complete. If such application
913 is incomplete or if such proposed licensed premises violates City laws,
914 the City Clerk shall provide to the Applicant twenty days to cure the
915 application or violation before notifying the State that the application is
916 disapproved by the City.

917 (f) Denial of initial application. The City Manager may deny any application
918 that does not meet the requirements of this Chapter, the Colorado
919 Marijuana Code, or any other applicable state or City law or regulation. In
920 addition to prohibitions on persons as licensees found in the Colorado
921 Marijuana Code, should the Applicant be unable to affirm or the City
922 discovers evidence that an affirmation was contrary, false, misleading or
923 incomplete, shall constitute full and adequate grounds for denial of any
924 application.

925 1. Notice of denial. If, after investigation and discovery, the City
926 Manager determines that the application will be denied, the City
927 Manager shall:

- 928 a. Provide notice in writing to the Applicant that
929 the Application is denied and reasons for the
930 denial;
931 b. Notify the State in writing of the City Manager's
932 decision to deny the application.
933

934 2. Appeal of denial. An Applicant may appeal the City Manager's
935 decision of denial by submitting a written request, on a form provided
936 by the City, received by the City Manager within 20 days of the date
937 on the written notice of denial. The appeal request shall include any
938 legal and factual support for the appeal. An appeal hearing will be set
939 before the Hearing Officer for a written appeal. The Hearing Officer
940 shall only review and consider those issues specifically addressed in
941 the written appeal.

942 **5.13.018 Randomized selection process.**

943 All applications that are confirmed to be complete and in accordance with all
944 applicable laws and regulations by the Hearing Officer shall enter the randomized
945 selection process if there are more such applications than available licenses. In the
946 event the number of confirmed applications is the same or fewer than the number
947 of available license(s), the randomized selection process will not occur.

948 **5.13.020 Investigation and fingerprinting of Applicant.**

949 Prior to the acceptance of applications for a License, transfer of ownership, change
950 of corporate structure, or other permit as provided in this Chapter, the Colorado
951 Marijuana Code and the Colorado Marijuana Rules, the following individuals shall
952 provide verified fingerprint information to the Grand Junction Police Department:

- 953 (a) If the Applicant is a natural person, that person;
954 (b) If the Applicant is a partnership, all of the partners; and
955 (c) If the Applicant is a corporation, both the officers and directors, together
956 with any person owning more than 10% of the stock thereof.

957 **5.13.021 Duty to supplement.**

- 958 (a) If, at any time before or after a license is issued pursuant to this Chapter,
959 any information required by the Colorado Marijuana Code, or any rule and
960 regulation adopted pursuant thereto, changes from that which is stated
961 in the application, the Applicant or Licensee shall supplement its
962 application with the updated information within ten days from the date
963 upon which such change occurs.

(b) An Applicant or Licensee has a duty to notify the Authority of any pending criminal charge(s) and any criminal conviction(s) by the Applicant, Licensee, any owner, officer, director, manager, agent or employee of the Applicant or Licensee within ten days of the event.

(c) An Applicant or Licensee has a duty to notify the Authority of any pending violation of, and any conviction for, a violation of any building, fire, health or zoning statute, code or ordinance related to the cultivation, processing, manufacture, transportation, storage, sale, distribution, testing, research, or consumption of any form of cannabis by the Applicant, Licensee, any owner, officer, director, manager, agent or employee of the Applicant or Licensee within ten days of the event.

5.13.023 Number of licenses.

(a) No more than ten regulatory cannabis business licenses, excluding any medical cannabis business license that are co-located with a Retail Cannabis business license, shall be issued.

5.13.024 Classes of licenses authorized.

For the purpose of regulating testing, distribution, offering for sale and sale of cannabis, the Licensing Authority, in its sole discretion, may issue and grant to the Applicant a local license from any of the following classes, and the City hereby authorizes issuance of the licenses of the following classes by the state licensing authority in locations in the City, subject to the provisions in this Chapter:

5.13.025 Requirements of Issuance of a License.

The Authority shall not issue a cannabis business license except when each of the following requirements have been met:

- (a) The City Manager approved the Applicant's initial application; and,
- (b) The Hearing Officer found the approved initial application to be complete and after a public hearing referred the initial application to the randomized selection process for possible selection for licensure for a license authorized by this Chapter;
- (c) If there was a randomized selection process, the initial Application was selected for licensure in that process; and,
- (d) The Applicant submitted all documents to the Authority that it provided to the State for cannabis business licensure; and,
- (e) The Applicant submitted *Findings of Suitability* application; and,

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999 (f) At the time of issuance of a License the Applicant has paid all fees and has
1000 or will have within 6 months of licensure a certificate of occupancy;

1001 (g) The Applicant and the Applicant's owner(s) and financier(s) are in
1002 compliance with all federal, state and local tax laws; and,

1003 (h) The Applicant has registered with the Authority the name(s) of the
1004 manager(s) of the cannabis business, and has provided to the Authority the
1005 names of all persons having 10% financial and/or ownership interest, in the
1006 cannabis business that is subject of the Application or, if the Applicant is
1007 an Entity, having a financial interest in the Entity together with the following:

- 1008 1. Name, address, date of birth;
- 1009
- 1010 2. Acknowledgment and consent that the City may conduct a
1011 background investigation, including a criminal history check, and the
1012 City will be entitled to full and complete disclosure of all financial
1013 records of the regulated cannabis business and of any or all financial
1014 interests thereof, including records of deposit, withdrawals, balances
1015 and loans;
- 1016
- 1017 3. If the Applicant is an Entity, information regarding the Entity,
1018 including without limitation, the name and address of the Entity, its
1019 legal status, and proof of registration with, or a certificate of good
1020 standing from, the Colorado Secretary of State, as applicable;
- 1021
- 1022 4. If the Applicant is not the owner of the proposed licensed premises, a
1023 notarized statement from the owner of such property authorizing the
1024 use of the property for a cannabis business and specifying the type of
1025 regulated cannabis business(es) permitted;
- 1026
- 1027 5. A copy of the deed reflecting the Applicant's ownership of, or the
1028 lease or contract reflecting the legal right of the Applicant to possess
1029 the proposed licensed premises for no less than four years;
- 1030
- 1031 6. Evidence of a valid City and state sales tax license for the business;
- 1032
- 1033 7. Proof of insurance as provided by § 5.13.035 of this Chapter;
- 1034
- 1035
- 1036 8. A zoning and buffering verification as described by this Chapter;
- 1037
- 1038 9. An operating plan;

Commented [DM3]: May consider extenuating
circumstance for extension beyond 6 months.

- 1039 **10. A security plan indicating how the Applicant will comply with the**
1040 **requirements set forth in the Colorado Marijuana Code, this Chapter,**
1041 **and any other applicable law, rule, or regulations pursuant thereto.**
1042 **The security plan includes specialized details of security**
1043 **arrangements and will be protected from disclosure as provided**
1044 **under the Colorado Open Records Act § 24-72-203(2)(a)(VIII), C.R.S. If**
1045 **the City finds that such documents are subject to inspection, it will**
1046 **provide notice to the Applicant as provided by the Colorado Open**
1047 **Records Act.**
1048
1049 **11. A plan for preventing underage persons from entering the premises.**
1050
1051 **12. If drive thru cannabis service is contemplated, a description of security**
1052 **measures to prevent and address diversion of cannabis to youth and**
1053 **potential criminal behavior and is required a zoning/land use permit.**
1054 **See 5.13.038.**
1055
1056 **13. A plan for disposal of any regulated cannabis that is not sold in a**
1057 **manner that protects any portion thereof from being possessed or**
1058 **ingested by any person or animal.**
1059
1060 **14. A plan for ventilation of the regulated cannabis business that describes**
1061 **the ventilation systems that will be used to prevent unreasonable odor**
1062 **of cannabis off the premises of the business;**
1063
1064 **15. Disclosure of the Applicant's financial interests, including individuals**
1065 **and/or entities.**
1066
1067 **16. A Licensee shall report each and every change of financial interest in**
1068 **the License and/or the Licensee to the Authority prior to any such**
1069 **change pursuant to and in accordance with the provisions of law and**
1070 **the Colorado Marijuana Rules. A report shall be required for transfers**
1071 **of capital stock of any corporation regardless the size, for transfers of**
1072 **member interests of any limited liability company regardless of the**
1073 **size, and for any transfer of an interest in a partnership or other entity**
1074 **or association regardless of size;**
1075
1076 **17. Any supplemental materials required to be provided by the State in**
1077 **order to receive a State-issued cannabis business license pursuant to**
1078 **the Colorado Marijuana Code and rules adopted pursuant thereto; and,**
1079

1080 18. Any supplemental materials to comply with City laws and any
1081 additional information that the Authority reasonably determines to be
1082 necessary in connection with the investigation and review of the
1083 Application.
1084

1085 (i) A written statement disclosing if the named owner(s), member(s),
1086 manager(s), Financer(s), agent(s), or person(s) named on the Application
1087 has(have) been:
1088

1089 1. Denied an application for a cannabis business license pursuant to this
1090 Chapter, or any state or local licensing law, rule, or regulation, or had
1091 such a license suspended or revoked.
1092

1093 2. Denied an application for liquor license pursuant to Title 44, Article 47
1094 or Article 46, C.R.S. or any similar state or local licensing law, or had
1095 such a license suspended or revoked.
1096

1097 3. In the event an owner, member, agent, manager, financier, or other
1098 person named on the Application contains information regarding
1099 violations of any law or previous denial or revocation of a license, that
1100 person must include with the Application any information regarding
1101 such violation(s), denial, or revocation. Such information must
1102 include, but is not limited to, a statement of the violation(s) and
1103 penalty(ies) for such violation(s), evidence of rehabilitation, character
1104 references, and educational achievements, and other regulatory
1105 licenses held without compliance violations, especially those items
1106 pertaining to the period of time between the Applicant's last violation
1107 of any law and the date of the application.
1108

1109 4. The City may, prior to issuance of the certificate of occupancy for the
1110 cannabis business, perform an inspection of the proposed licensed
1111 premises to determine compliance with any applicable requirements
1112 of this Chapter or other provisions of this Code, the International Fire
1113 Code or the International Building Code.
1114

1115 **5.13.026 Fees.**

1116 (a) A nonrefundable Application Fee shall be paid to the state upon
1117 application to the state for a cannabis business license.

1118 (b) The Application Fee shall be paid to the City at the time of application for
1119 a cannabis business license. At the discretion of the City, a portion of the
1120 license fee may be refunded if an application is withdrawn by the

1121 Applicant, denied by the City Manager or Hearing Officer, or the Applicant
1122 is not selected in the randomized selection process for issuance of a
1123 cannabis business license. A request for a refund must be made in
1124 writing by the Applicant to the City Manager within 30 days of the date of
1125 the withdrawal, denial of the application or failure of the license to be
1126 selected in the randomized selection process for issuance of a cannabis
1127 business license.

1128 (c) Renewal, change of location, inspection and all other fees may be
1129 imposed as necessary for the administration, regulation and
1130 implementation of this Code shall be set by City Council resolution.

1131 (d) License and application fees shall be set City Council resolution, and, as
1132 deemed necessary, adjusted to reflect the direct and indirect costs
1133 incurred by the City in connection with the adoption, administration, and
1134 enforcement of this Code.

1135 (e) In addition to fees and any other monetary remedy provided by this Code,
1136 the City shall have the right to recover all sums due and owing hereunder
1137 by any civil remedy available at law.

1138 **5.13.028 No vested rights; commencement of operations.**

1139
1140 (a) Notwithstanding anything contained in this Chapter, an application
1141 initially approved for consideration of licensure and found to be
1142 complete by the Hearing Officer, or in the event a license is issued,
1143 creates no vested right(s) to the License or the renewal of a License,
1144 and no property right in the License or the renewal of a License is
1145 created.

1146
1147 (b) In the event that a cannabis business does not commence operations
1148 within 180 days of issuance of a certificate of occupancy for the
1149 regulated cannabis business from the City, the license shall be deemed
1150 forfeited and the business may not commence operation.

1151
1152 (c) It shall be unlawful for the owner of a building to allow the use of any
1153 portion of the building by a cannabis business unless the tenant has a
1154 valid regulated cannabis business license or has applied for one and
1155 been awarded a regulated cannabis business license or no cannabis is
1156 located on the premises until a license has been issued by the City. In
1157 the event that the City has an articulable reason to believe that a
1158 regulated cannabis business is being operated in a building, it shall be
1159 unlawful for the owner of the building to refuse to allow the City access

to the portion of the building in which the suspected cannabis business is located to determine whether any cannabis is on the premises.

5.13.029 Transfer.

(a) A cannabis business license is not transferrable or assignable, in whole or in part, including, without limitation, to a different premise or to a different type of business. A regulated cannabis business license is valid only for the owner named thereon, the type of business disclosed on the application for the License(s), and the location for which the license is issued. The Licensee(s) of a regulated cannabis business are only those persons disclosed in the Application or subsequently disclosed to the City in accordance with this Chapter.

(b) Transfer of ownership of any interest of the Licensee may not occur within three years of issuance of the license by the City.

(c) Transfer of ownership of any regulated cannabis business license issued pursuant to this Chapter shall be governed by the standards and procedures set forth in the Colorado Marijuana Code and any regulations adopted pursuant thereto and the Authority shall administer transfers of local licenses in the same manner as the state licensing authority administers transfers of state licenses. The public hearing requirement set forth in § 5.13.031 of this Chapter shall apply to all applications for transfer of ownership of any regulated cannabis license.

(d) In determining whether to permit a transfer of ownership, the Authority may consider the requirements of law and the Colorado Marijuana Rules. No application for transfer of ownership will be considered by the Authority if, at the time of such application, the Licensee is under a notice of violation or other unlawful acts issued by either the Authority or the state licensing authority.

(e) The submission or pendency of an application for transfer of ownership does not relieve the Licensee from the obligation to properly apply to renew such License.

(f) No owner may apply for a transfer of ownership of any regulated cannabis business license issued pursuant to this Chapter if the transferee is an owner of or an affiliate of any other business entity holding another regulated cannabis license in the City.

5.13.030 Change in corporate structure.

(a) A change of corporate structure of any regulated cannabis business that results in any of the change(s) in subsections 1 through 3 below shall

1199 require the filing of an application and payment of the requisite fees and
1200 shall be subject to all requirements of the licensing process. A change of
1201 corporate structure shall be heard and approved or denied by the Authority.

1202 1. Any transfer or assignment of ten percent or more of the capital
1203 stock of any corporation, or ten percent or more of the ownership
1204 interests of any limited partnership interest in any year, or transfer
1205 of a controlling interest regardless of size.

1206 2. Any change of officer or directors of a corporation that involves the
1207 addition or substitution of individual(s) who was not previously an
1208 officer or director of the corporation during a period of time that the
1209 corporation held the license.

1210 3. Any transfer of the capital stock of any corporation, or transfer of
1211 any limited partnership interest in any general partnership of a
1212 limited partnership, or transfer of any limited liability company
1213 interest in a limited liability company of any kind, joint venture or
1214 business entity that results in any individual owning more than ten
1215 percent of an ownership interest in the business entity if that
1216 individual's ownership interest did not exceed ten percent prior to
1217 the transfer.

1218 (b) A change of corporate structure that results in any transfer or assignment
1219 of less than ten percent of the capital stock of any corporation or less than ten
1220 percent of the ownership interests of any limited partnership interest in any
1221 year to a person who currently has an interest in the business, and that does
1222 not result in a change of controlling interest, shall not require an application
1223 for change of corporate structure.

1224 (c) No application for transfer of ownership or change in corporate structure
1225 may be approved by the Authority until all City and state occupational taxes,
1226 City and state sales and use taxes, excise taxes, any fines, penalties, and
1227 interest assessed against or imposed upon such Licensee in relation to
1228 operation of the licensed business are paid in full.

1229 (d) A Licensee shall report each and every change of financial interest in the
1230 license and/or the Licensee to the Authority prior to any such change pursuant
1231 to and in accordance with the provisions of law and the Colorado Marijuana
1232 Rules. A report shall be required for transfers of capital stock of any
1233 corporation regardless the size, for transfers of member interests of any limited
1234 liability company regardless of the size, and for any transfer of an interest in a
1235 partnership or other entity or association regardless of size.

1236 (e) No owner may apply for a change in corporate structure of any regulated
1237 cannabis business licensed entity issued pursuant to this Chapter if the

change adds any person or entity as an owner, officer or member of the corporation or entity as an affiliate of any other business entity holding another regulated cannabis license in the City.

5.13.031 Public hearing and Notice Requirements.

(a) The public hearing procedure shall apply to any Application that has been first approved by the City Manager for any regulated cannabis business and to any application for licensing renewal if the renewal application is referred to the Licensing Authority by the City Manager pursuant to § 5.13.045 of this Chapter.

(b) Public notice of the application shall be given as follows:

1. Posting a sign by the applicant on the premises for which an application has been made, not less than 14 days prior to the public hearing, stating the date of the application, the date of the hearing, the name and address of the applicant and such information as may be required to fully apprise the public of the nature of the application. The City Clerk shall provide the sign to the applicant for posting. If the building in which the regulated cannabis business is to be located is in existence at the time of the application, any sign posted shall be placed so as to be conspicuous and plainly visible to the general public.

2. Publication of notice by the City Manager not less than 14 days prior to the public hearing, in the same manner as the City posts notice of other public hearing matters.

(c) Any decision of the Authority approving or denying an application shall be in writing stating the reasons therefor and the City Manager shall send a copy of such decision by certified mail to the Applicant at the address shown in the Application and to the State licensing authority.

5.13.032 Licenses and permits prohibited.

The following regulated cannabis licenses and permits, as defined in C.R.S. 44-10-103 as amended, shall be prohibited in the City:

(a) Cannabis Products Manufacturing and Cultivation Licenses,

(b) Cannabis Hospitality and Sales Licenses,

(c) Cannabis Transporter Licenses,

Commented [JS4]: See also 5.13.024

(d) Cannabis Business Operator Licenses,

(e) Cannabis Cultivator Licenses,

(f) Cannabis Accelerator Licenses.

5.13.033 Persons prohibited as Licensees.

(a) No license shall be issued to, held by or renewed by any of the following:

- 1. Any person until the annual fee for the license has been paid;**
- 2. Any natural person who is not of good moral character;**
- 3. Any entity of whose officers, directors, stockholders, or managing members are not of good moral character;**
- 4. Any person employing, assisted by, or financed in whole or in part by any other person who is not of good moral character;**
- 5. Any natural person who has been released within five years immediately preceding the application from any form of incarceration or court-ordered supervision, including a deferred sentence, resulting from a conviction of any felony or any crime under the laws of the State would be a felony; or any crime of which fraud or intent to defraud element, whether in the State or elsewhere; or any felonious crime of violence, whether in the State or elsewhere;**
- 6. Any person with ten percent (10%) or greater financial interest in the entity that has been convicted of any of the offenses set forth in (1) above;**
- 7. Any Applicant who has made a false, misleading or fraudulent statement or who has intentionally omitted pertinent information on his or her application for a license;**
- 8. Any natural person who is under 21 years of age;**
- 9. Any person who operates or manages a regulated cannabis business contrary to the provisions of this Chapter, any other applicable law, rule, or regulation or conditions imposed on land use or license approvals, or contrary to the terms of the plans submitted with the license application or has operated a business in violation of any law;**

- 1311 **10. Any person applying for a license to operate a regulated cannabis**
1312 **business who has been licensed to operate another regulated**
1313 **cannabis business in the City pursuant to this Chapter;**
- 1314 **11. A person licensed pursuant to this Chapter who, during a period**
1315 **of licensure, or who, at the time of application, has failed to remedy**
1316 **an outstanding delinquency for taxes owed, or an outstanding**
1317 **delinquency for judgments owed to a government;**
- 1318 **12. A sheriff, deputy, police officer, prosecuting officer, or an officer**
1319 **or employee of the state or Authority; and,**
- 1320 **13. A person whose authority to be a primary caregiver as defined in**
1321 **§ 25-1.5-106(2), C.R.S., has been revoked by the state health**
1322 **agency.**
- 1323 **14. No owner of any business applying for a license or in possession**
1324 **of a license within the City may apply for or be an owner of or be**
1325 **an affiliate of any other business entity applying for another license**
1326 **within the City.**
- 1327 **(b) In making an evaluation of the good moral character of an individual**
1328 **identified on an application or amendment thereof, the Authority shall**
1329 **consider the following:**
- 1330 **1. An Applicant's violation of law shall not, by itself, be grounds for**
1331 **denying an application;**
- 1332 **2. Verification of or lack of ability to verify items disclosed by the**
1333 **Applicant;**
- 1334 **3. When a person has a history of violation of any law or a history**
1335 **including denial, revocation, or suspension of a license, the types**
1336 **and dates of violations; the evidence of rehabilitation, if any,**
1337 **submitted by the individual; whether the violations of any laws are**
1338 **related to moral turpitude, substance abuse, or other violations of**
1339 **any laws that may directly affect the individual's ability to operate**
1340 **a regulated cannabis business; or whether the violations of any law**
1341 **are unrelated to the individual's ability to operate such a business;**
- 1342 **4. The evidence or lack of evidence regarding the ability of the**
1343 **individual to refrain from being under the influence of intoxicating**
1344 **or controlled substances while performing regular tasks and**
1345 **operating a regulated cannabis business;**
- 1346 **5. Rules adopted by the Authority to implement this Chapter;**

1347 6. Law, rules, and regulations applicable to evaluation of other types
1348 of licenses issued by the City that consider the good moral
1349 character of the Applicant; and,

1350 7. Any additional information the Authority may request of the
1351 Applicant if the Applicant has a violation of any laws, an
1352 administrative or judicial finding of violation of laws regarding use
1353 of alcohol or controlled substances or items disclosed by the
1354 individual which require additional information in order for the
1355 manager to make a determination regarding issuance of the
1356 license.

1357 **5.13.034 Security requirements.**

Commented [JS5]: Confirm with GJPD

1358 Security measures at all licensed premises shall comply with the requirements of
1359 the Colorado Marijuana Code and applicable rules and regulations promulgated
1360 thereunder. In addition, thereto, the following security practice are required:

1361 (a) A security plan submitted with the Application, as it may be amended, shall
1362 provide equipment, which shall be in good working order, monitored, and
1363 secured 24 hours per day. The plan, at a minimum, shall include:

1364 1. The installation and use of security cameras to monitor and record all
1365 areas of the premises (except restrooms), and where persons may
1366 gain or attempt to gain access to cannabis or cash maintained by the
1367 regulated cannabis business. Cameras shall record operations of the
1368 business to the off-site location, as well as all potential areas of
1369 ingress or egress to the business with sufficient detail to identify facial
1370 features and clothing. Recordings from security cameras shall be
1371 maintained for a minimum of 40 days in a secure offsite location in the
1372 City or through a service over a network that provides on-demand
1373 access, commonly referred to as a "cloud". The offsite location shall
1374 be included in the security plan submitted to the City and provided to
1375 the Grand Junction Police Department and updated within 72 hours of
1376 any change of such location.

1377 2. The installation and use of a safe for storage and any processed
1378 cannabis and cash on the premises when the business is closed to
1379 the public. The safe, as defined in 5.13.013, shall be incorporated into
1380 the building structure or securely attached thereto.

1381 3. The installation and use of an alarm system that is monitored by a
1382 company that is staffed 24 hours a day, seven days a week. The
1383 security plan submitted to the City shall identify the company
1384 monitoring the alarm, including contact information, and updated
1385 within 72 hours of any change of monitoring company. If the alarm

1386 system includes a panic alarm, an operable dedicated phone for law
1387 enforcement to respond to the alarm shall remain on the premises at
1388 all times.

1389 4. The installation and use of outdoor lighting and a diagram and
1390 description of where the lighting shall be placed in accordance with
1391 the GJMC.

1392 (b) The security plan shall be designed to:

1393 1. Prevent the use of cannabis on the licensed premises;

1394 2. Prevent unauthorized individuals from entering the limited access
1395 area portion of the licensed premises;

1396 3. Prevent theft or the diversion of cannabis, including maintaining all
1397 cannabis in a secure, locked room that is accessible only to
1398 authorized persons and, when the business is closed to the public, in
1399 a safe or vault or equivalent secured fixture.

1400 5.13.035 Insurance.

1401 (a) All Applicants must provide at time of application a quote for insurance for
1402 worker's compensation as required by state law and general liability
1403 insurance with minimum limits of \$1,000,000 per occurrence and a
1404 \$2,000,000 aggregate limit.

1405 (b) Licensee shall at all times maintain in force and effect worker's
1406 compensation insurance as required by state law and general liability
1407 insurance with minimum limits of \$1,000,000 per occurrence and a
1408 \$2,000,000 aggregate limit.

1409 (c) Insurance shall:

1410 1. Provide primary coverage;

1411 2. Carry limits as provided in this Chapter;

1412 3. Issue from a company licensed to do business in Colorado having an AM
1413 Best rating of at least A-VI; and,

1414 4. Be procured and maintained in full force and effect for duration of the
1415 License.

1416 (d) Licensee shall be required to maintain insurance under this section and shall
1417 annually provide the City a certificate of insurance evidencing the existence
1418 of a valid and effective policy. The certificate shall show the following:

1419 1. The limits of each policy, the name of the insurer, the effective date and
1420 expiration date of each policy, the policy number, and the names of the
1421 additional insureds; and,

1422 2. A statement that Licensee shall notify the City of any cancellation or
1423 reduction in coverage within seven days of receipt of insurer's
1424 notification to that effect. The Licensee shall forthwith obtain and submit
1425 proof of substitute insurance in the event of expiration or cancellation of
1426 coverage within 30 days.

1427 **5.13.036 Report requirements.**

1428 A cannabis business shall report to the City Manager each of the following within
1429 the time specified. If no time is specified, the report shall be provided within 72
1430 hours of the event:

1431 (a) Transfer or change of financial interest, manager or Financier in the license
1432 to the City at least 30 days before the transfer or change;

1433 (b) Sales and taxable transactions and file sales and use tax reports to the City
1434 monthly;

1435 (c) Any violation of law by any Licensee, Applicant, or employee of a regulated
1436 cannabis business;

1437 (d) A notice of potential violation of any law to any license;

1438 (e) Upon City request, any report that the regulated cannabis business is
1439 required to provide to the State; and;

1440 (f) Licensee and any agent, manager or employee thereof shall immediately
1441 report to the Grand Junction Police Department any disorderly act, conduct
1442 or disturbance and any unlawful activity committed in or on the licensed
1443 premises, including, but not limited to, any unlawful sale of regulated
1444 cannabis, and shall also immediately report any such activity of which the
1445 Licensee has knowledge in the immediate vicinity of the business within
1446 twelve hours of the occurrence.

1447 (g) Each Licensee shall post and keep at all times visible to the public in a
1448 conspicuous place on the premises a sign with a minimum height of 14
1449 inches and a minimum width of 11 inches with each letter to be minimum of
1450 one-half inch in height, which shall read as follows:

WARNING:

Grand Junction Police Department shall be notified of any disorderly act(s), conduct or disturbance(s) and all unlawful activity(ies) which occur on or within the premises of this licensed establishment.

(h) It shall not be a defense to a prosecution of a License under this section that the Licensee was not personally present on the premises at the time such unlawful activity, disorderly act, conduct, or disturbance was committed.

(i) Failure to comply with the requirements of this section shall be considered by the Authority in any action relating to the issuance, revocation, suspension or nonrenewal of a license.

5.13.037 Public health and labeling requirements.

(a) All regulated cannabis sold or otherwise distributed by the Licensee shall be labeled in a manner that complies with the requirements of the Colorado Marijuana Code and all applicable rules and regulations promulgated thereunder.

(b) All regulated cannabis sold or otherwise distributed by the Licensee shall be packaged and labeled in a manner that advises the purchaser that it contains cannabis and specifies the amount of cannabis in the product, that the cannabis is intended for regulated use solely by the person to whom it is sold, and that any resale or redistribution of the regulated cannabis to a third person is prohibited. In addition, the label shall comply with all applicable requirements of the State of Colorado and any other applicable law.

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

5.13.038 Cannabis sales; walk-up and drive thru.

(a) Regulated cannabis stores licensed may serve customers through drive-up window as permitted by the City and the State. If a licensed business intends to permit a walk-up and/or drive-thru sales, this must be included in the business plan submitted to the City in the application process.

(b) Order and identification requirements.

1. Prior to transferring cannabis to a customer, the regulated cannabis business must ensure that the consumer is 21 years of age or older by

1485 inspecting the consumer's identification in the same manner as
1486 described in § 5.13.041(f).

1487 2. Regulated cannabis stores may accept telephone or online orders or
1488 may accept orders from the consumer at the walk-up window or drive-up
1489 window, to the extent allowed under state law.

1490 3. All orders received through a walk-up window or drive-thru window must
1491 be placed by the customer from a menu. The regulated cannabis store
1492 may not display cannabis at the walk-up or drive-thru window.

1493 4. Delivery windows for walk-up sales must be at a separate location on the
1494 premises than those for drive-thru sales.

1495 5. For every transfer of regulated cannabis through either a walk-up
1496 window or drive-up window, the regulated cannabis store video
1497 surveillance must record the consumer's facial features with sufficient
1498 clarity to establish their identity (and consumer's vehicle in the event of
1499 drive-up window) and must record the Licensee verifying the consumer's
1500 identification and completion of the transaction through the transfer of
1501 regulated cannabis.

1502

1503

1504

1505 **5.13.039 Prohibited acts. It shall be unlawful:**

1506 (a) For any person to sell cannabis or cannabis products without valid
1507 regulated cannabis business licenses from the City and a valid regulated
1508 cannabis business license from the State;

1509

1510 (b) at a licensed regulated cannabis store any time not permitted by this Code;
1511 For any person to operate a regulated cannabis business

1512 (c) For any person to sell or distribute cannabis to persons under the age of
1513 21;

1514 (d) For any person under 21 years of age to be on or within the limited access
1515 area of any cannabis business;

- 1516 (e) For any person to display, transfer, cultivate, distribute, transfer, serve,
1517 sell, give away, produce, dispose of, smoke, use, or ingest cannabis or any
1518 cannabis openly or publicly in a place open to the general public;
- 1519 (f) For any person to possess or operate a cannabis business in violation of
1520 this Chapter or in a manner that is not consistent with the items disclosed
1521 in the application for the cannabis business or be in violation of any plan
1522 made part of the License Application and/or License;
- 1523 (g) For any person to produce, distribute, or possess more cannabis than
1524 allowed by law, or than disclosed in the application to the State of Colorado
1525 and the Authority for a cannabis business license, or other applicable law;
- 1526 (h) For any person to refuse or fail to provide video surveillance footage to the
1527 Grand Junction Police Department, the City Manager, the City Attorney, or
1528 the Authority in connection with a criminal and/or license violation
1529 investigation, or to refuse to allow inspection of a cannabis business.
1530
- 1531 (i) For any person to refuse to allow inspection of a regulated cannabis
1532 business upon request of a City employee. Any Licensee, owner, manager,
1533 or operator of a regulated cannabis business, or the owner of the property
1534 where a regulated cannabis business is located, may be charged with this
1535 violation;
- 1536 (j) For any person to store or keep cannabis intended for sale or distribution
1537 by the Licensee in any place outside of the licensed premises;
- 1538 (k) For any person to smoke, use, or ingest on the premises of a regulated
1539 cannabis business cannabis, fermented malt beverage, malt, vinous, and
1540 spirituous liquor or any controlled substance(s), except in compliance
1541 with the directions on a legal prescription for the person from a doctor
1542 with prescription writing privileges;
- 1543 (l) For any person to operate or be in physical control of any cannabis
1544 business while under the influence of alcohol or other intoxicant, or
1545 cannabis, or any controlled substance(s), except in compliance with the
1546 directions on a legal prescription for the person from a doctor with
1547 prescription writing privileges;
- 1548 (m) For alcohol beverages to be on the licensed premises;
- 1549 (n) For any person to purchase cannabis in the City from any person not
1550 properly licensed to sell cannabis;
- 1551 (o) For any person to possess or operate a regulated cannabis business in
1552 violation of this Chapter;

- 1553 (p) For any person to produce, distribute, or possess more cannabis than
1554 allowed by law; or than disclosed in the application to the State of Colorado
1555 for a regulated cannabis business license, or other applicable law;
- 1556 (q) For any person to give away, dispense, or otherwise distribute cannabis for
1557 free or without use of a coupon approved and defined by this Code;
- 1558 (r) For any person to knowingly conduct or permit any employee to conduct
1559 any sale(s) transaction(s) when the video surveillance system or equipment
1560 is inoperable;
- 1561 (s) For any person to distribute cannabis for remuneration without a regulated
1562 cannabis license or outside of the restricted area of the regulated cannabis
1563 business;
- 1564 (t) For any person to possess regulated cannabis, or own or manage a
1565 regulated cannabis business, or own or manage a building with a regulated
1566 cannabis business, where there is possession of regulated cannabis, by a
1567 person who is not lawfully permitted to possess regulated cannabis;
- 1568 (u) For any person to possess or operate a regulated cannabis business in a
1569 location for which a regulated cannabis business license is prohibited by
1570 law;
- 1571 (v) For any person to operate a regulated cannabis business in a manner that
1572 is not consistent with the Application for the regulated cannabis business
1573 or is in violation of any plan made part of the license application/issued
1574 license;
- 1575 (w) For any person to operate a regulated cannabis business without obtaining
1576 and passing all building inspections and obtaining all permits required by
1577 the City;
- 1578 (x) For any person to operate a regulated cannabis business in violation of any
1579 building, fire, zoning, plumbing, electrical, or mechanical code(s) as
1580 adopted and amended by the City;
- 1581 (y) For any person to operate a regulated cannabis business without
1582 disclosing, in the application for a regulated cannabis business license or
1583 an amendment thereto, an agent who either (i) acts with managerial
1584 authority, (ii) provides advise to the regulated cannabis business for
1585 compensation, or (iii) receives periodic compensation totaling \$1,000 or
1586 more in a single year for services related to the regulated cannabis
1587 business. It shall be an affirmative defense that the undisclosed person
1588 was an attorney, accountant, bookkeeper, or mail delivery person;

- 1589 (z) For any person to operate a regulated cannabis business without a sales
1590 tax license as required by the GJMC;
- 1591 (aa) For any person to make any change(s), or for the Licensee to allow any
1592 change(s), to the terms of any plan(s) submitted with the license
1593 application and approved by the City, or the person(s) entity(ies) named in
1594 the application, without prior approval of the City;
- 1595 (bb) For any person to attempt to use or display a regulated cannabis business
1596 license at a different location or for a different business entity than the
1597 location and business entity disclosed on the application for the issued
1598 license;
- 1599 (cc) For any person to cultivate, produce, distribute or possess regulated
1600 cannabis or own or manage a regulated cannabis business in which
1601 another person cultivates, produces, distributes, or possesses cannabis,
1602 in violation of law;
- 1603 (dd) For any person to allow an owner or manager that has not been disclosed
1604 to the City as required by law to operate the business;
- 1605 (ee) For any person to dispose of regulated cannabis or any by-product of
1606 regulated cannabis containing cannabis in a manner contrary to law;
- 1607 (ff) For a person to distribute a regulated cannabis plant to any person, except
1608 as permitted by law for immature plants;
- 1609 (gg) For any person to deliver regulated cannabis between regulated cannabis
1610 businesses except in strict compliance with law;
- 1611 (hh) For any person to advertise or publish materials, honor coupons, sell
1612 or give away products, or display signs that are in violation of this Code or
1613 the laws of the State of Colorado;
- 1614 (ii) For any person to violate any provision of this Code or any condition of a
1615 license granted pursuant to this Code or any law, rule, or regulation
1616 applicable to the use of regulated cannabis or the operation of a regulated
1617 cannabis business;
- 1618 (jj) For any person to permit any other person to violate any provision of this
1619 Code or any condition of an approval granted pursuant to this Code, or any
1620 law, rule, or regulation applicable to the use of regulated cannabis or the
1621 operation of a regulated cannabis business;

- 1622 (kk) For any person to lease any property to a regulated cannabis business that
1623 has cannabis on the property without a regulated cannabis business license
1624 from the City;
- 1625 (ll) For any person to distribute cannabis within a regulated cannabis business
1626 to any person who shows visible signs of intoxication from alcohol,
1627 cannabis, or other drug(s)/intoxicant(s);
- 1628 (mm) For any person to be on or within the licensed premises if such person is
1629 under 21 years of age;
- 1630 (nn) For any person to permit any person under 21 years of age on the premises
1631 of the regulated cannabis business; it is presumed that the Licensee is
1632 aware of the age of all people on the premises if identification is not
1633 specifically checked at the entry to the building;
- 1634 (oo) For any person to fail to confiscate fraudulent proof of age and notify the
1635 Grand Junction Police Department. It shall be an affirmative defense to
1636 failure to confiscate the fraudulent proof of age if an attempt to confiscate
1637 a fraudulent proof of age caused a reasonable person to believe the act
1638 created a threat to any person;
- 1639 (pp) For any person to fail to provide a copy or record of a coupon issued by or
1640 redeemed at the regulated cannabis business upon request of an authorized
1641 City employee;
- 1642 (qq) For any licensee or any manager, agent or employee of such licensee to fail
1643 to immediately report to the Grand Junction Police Department and the
1644 Authority any disturbance(s), disorderly conduct or criminal activity
1645 occurring at the regulated cannabis business, on the licensed premises,
1646 within the licensed premises, or any property under the control or
1647 management of the Licensee, including any associated contiguous parking
1648 area used by Licensee's patrons. For the purpose of this subsection,
1649 "report" means to either:
- 1650 1. Immediately, verbally, and directly in person notify any on-site
1651 uniformed Grand Junction Police Officer whether on duty or
1652 working secondary employment; or
 - 1653 2. Immediately place and complete a telephone call to the non-
1654 emergency line at the Grand Junction Police Department; or
 - 1655 3. Immediately place and complete a telephone call to the
1656 emergency line at the Grand Junction Police Department.

1657 (rr) For any person to fail to post the premises with signs notifying the public of
1658 the closure of the business during a suspension as required by this Chapter;

1659 (ss) For any licensee holding a regulated cannabis store license, or for any agent,
1660 manager or employee thereof, to sell, give, dispense or otherwise distribute
1661 cannabis or regulated cannabis paraphernalia from any outdoor location;

1662 (tt) For any person to employ a business manager that has not been properly
1663 registered with the City; and,

1664 (uu) For any person to operate or possess a regulated cannabis business license
1665 in violation of any ordinance or regulation of the City, or any applicable law,
1666 rule or regulation.

1667 Any person who pleads guilty or no contest to, or who, after hearing, is found to
1668 have violated any of the foregoing shall be subject to penalties pursuant to
1669 Chapter 1.04.080 and any penalties specifically referenced within the GJMC.

1670 5.13.040 Nonrenewal, suspension or revocation of license.

1671 (a) The term and renewal of the license shall be governed by the standards and
1672 procedures set forth in the Colorado Marijuana Code, the City's Code and
1673 any rules and regulations adopted pursuant thereto.

1674 (b) The Authority may, after notice and hearing, suspend, revoke or deny
1675 renewal of a license for any of the following reasons:

1676 1. The Applicant or licensee, or his or her agent, manager or employee,
1677 manager, or financier has violated, does not meet, or has failed to comply
1678 with, any of the terms, requirements, conditions, or provisions of this
1679 Code or with or with any applicable state or local law, rule or regulation;

1680 2. The Applicant or Licensee, or his or her agent, manager or employee, or
1681 financier has failed to comply with any special terms or conditions of its
1682 license pursuant to an order of the state or the Authority, including those
1683 terms and conditions that were established at the time of issuance of the
1684 license and those imposed as a result of any disciplinary
1685 proceeding(s) held subsequent to the issuance of the license;

1686 3. The regulated cannabis business has been operated, by a preponderance
1687 of the evidence, in a manner that adversely affects the public health,
1688 safety or welfare;

1689 4. Misrepresentation or omission of any material fact, or false or misleading
1690 information, on the application any amendment thereto, or renewal

1691 request, or any other information provided to the City related to the
1692 regulated cannabis business;

1693 5. Violation of any law by which, if occurring prior to and during submittal
1694 and review of the application, could have been cause for denial of the
1695 license application;

1696 6. Distribution of cannabis, including, without limitation, in violation of this
1697 Chapter or any other applicable law, rule, or regulation;

1698 7. Failure to maintain, or provide to the City upon request, any books,
1699 recordings, reports, or other records required by this Chapter;

1700 8. Failure of the Licensee to file any report(s), notification(s) or furnish any
1701 information as required by the provisions of this Chapter, or any rule or
1702 law adopted pursuant thereto relating to any license authorized by law;

1703 9. Failure to timely notify the City and to complete necessary form(s) for
1704 change(s) in financial interest, manager(s), financier, or agent;

1705 10. Temporary or permanent closure, or other sanction of the business, by
1706 the City, or by the County or State of Colorado or other governmental
1707 entity with jurisdiction, for failure to comply with health and safety
1708 provisions of this Chapter or otherwise applicable to the business or any
1709 other applicable law;

1710 11. Revocation or suspension of another regulated cannabis business or any
1711 other license issued by the City, the State, or any other jurisdiction held
1712 by any Licensee of the regulated cannabis business;

1713 12. Failure to timely correct any violation of any law or comply with any order
1714 to correct a violation of any law within the time stated in the notice or
1715 order;

1716 13. Abandonment of the licensed premises by the Licensee or otherwise
1717 ceasing of operations without notifying the Authority and the state
1718 licensing authority within 48 hours in advance and without accounting for
1719 and forfeiting to the state licensing authority for the destruction of all
1720 cannabis or products containing cannabis;

1721 14. Failure to comply with the provisions of the Colorado Marijuana Code, the
1722 City's Code, and any rule or regulation adopted pursuant thereto, or any
1723 special term or condition placed upon the Licensee by order of the
1724 Authority or State licensing authority.

- 1725 **15. Violations of any conditions imposed in connection with the issuance or**
1726 **renewal of the license;**
- 1727 **16. Failure to pay all required fines, interest, costs, fees, or penalties**
1728 **assessed against or imposed upon such Licensee in relation to the**
1729 **licensed cannabis business;**
- 1730 **17. Failure to file tax returns when due as required by this Code, or the**
1731 **Licensee is overdue on his or her payment to the state or local taxes**
1732 **related to the operation of the business associated with the license;**
- 1733 **18. Loss of right of possession to the licensed premises;**
- 1734 **19. Failure of the licensee to comply with the duty to supplement the license**
1735 **application;**
- 1736 **20. Failure of the licensee to operate in accordance with any special term or**
1737 **condition placed upon a license by the Authority or the state licensing**
1738 **authority;**
- 1739 **21. The licensee, or any of agent(s) or employee(s) of the Licensee, have**
1740 **committed any unlawful act as described in this Chapter or violated any**
1741 **ordinance of the City or any state law on the premises or have permitted**
1742 **such a violation on the premises by any person;**
- 1743 **22. The licensee has knowingly permitted or encouraged, or has knowingly**
1744 **and unreasonably failed to prevent a public nuisance within the meaning**
1745 **of this Chapter from occurring or in or about the licensed premises;**
- 1746 **23. The odor of cannabis is perceptible to an ordinary person at the exterior**
1747 **of the building at the licensed premises or is perceptible within any space**
1748 **adjoining the licensed premises;**
- 1749 **24. The licensee knowingly permitted or allowed the consumption of**
1750 **cannabis on the licensed premise;**
- 1751 **25. The licensee knowingly permitted the possession or consumption of an**
1752 **alcohol beverage within the licensed premises. At any hearing for**
1753 **violation of this subsection, any bottle, can, or other container label**
1754 **indicating the contents of such bottle, can, or other container, shall be**
1755 **admissible into evidence and shall be prima facie evidence that the**
1756 **contents of the bottle, can, or other container was composed in whole or**
1757 **in part an alcohol beverage;**
- 1758 **26. The licensee has failed to appear upon a Municipal Court summons;**

1759 **27. The licensee, or any of the officer(s), director(s), owner(s), manager(s),**
 1760 **agent(s), or employee(s) has(have) been convicted of a felony or drug**
 1761 **related criminal offense within the previous 12 months;**

1762 **28. The licensee engaged in any form of business or commerce involving the**
 1763 **cultivation, processing, manufacturing, storage, sale, distribution,**
 1764 **transportation, testing, research or consumption of any form of cannabis**
 1765 **or cannabis product other than the privileges granted under the regulated**
 1766 **cannabis business license;**

1767 **29. The licensee has materially or substantially, changed, altered, or modified**
 1768 **the licensed premises, or use of the licensed premises, without obtaining**
 1769 **prior approval to make such changes, alterations, or modifications from**
 1770 **the Authority;**

1771 **30. The licensee has failed to maintain a valid state license; and,**

1772 **31. The licensee, or any of the agent(s), servant(s) or employee(s) of the**
 1773 **licensee has/have violated any ordinance of the City or any state or**
 1774 **federal law on the premises or have permitted such a violation on the**
 1775 **premises by any other person.**

1776 **(c) Evidence to support a finding of a violation(s) may include, without**
 1777 **limitation, one or a combination of the following;**

1778 **1. A continuing pattern of disorderly conduct, disturbance(s) or criminal**
 1779 **activity occurring at the location, on the licensed premises, within the**
 1780 **licensed premises, or any adjoining grounds or property under the**
 1781 **control or management of the licensee;**

1782 **2. An ongoing nuisance condition emanating from or caused by the**
 1783 **regulated cannabis business.**

1784 **(d) In the event a business or Licensee is charged with violation of any law, upon**
 1785 **which a final judgment would be grounds for suspension or revocation of a**
 1786 **license, the City may suspend the license pending the resolution of the**
 1787 **alleged violation.**

1788 **(e) If the City revokes or suspends a license, the regulated cannabis business**
 1789 **may not move any cannabis from the premises except under the supervision**
 1790 **of the Grand Junction Police Department.**

1791 **(f) The Authority shall conduct a review of all licenses at least annually and, in**
 1792 **addition to examining the factors enumerated in this subsection, may hold a**
 1793 **hearing on each license at which the general public may be invited to appear**
 1794 **and provide testimony as to the effects of the license on the surrounding**

1795 community and the City at large, and the Authority may take such views into
1796 consideration when deciding whether to continue or renew such license.

1797 (g) In the event of the suspension of a regulated cannabis business license,
1798 during the period of suspension, the business:

1799 1. Shall post two notices provided by the Authority, in conspicuous places,
1800 one on the exterior and one on the interior of its premises for the duration
1801 of the suspension; and

1802 2. Shall not sell or otherwise distribute or transport cannabis, nor allow any
1803 customers into the licensed premises.

1804 **5.13.041 Operational Standards.**

1805 All regulated cannabis businesses shall comply with the applicable state and
1806 local laws, rules and regulations, as amended. In addition, Licensees shall
1807 comply with the following local operational standards. Failure to comply with any
1808 State or local law, rule or regulation or any operational standard(s) may be
1809 grounds to suspend or revoke any license and impose civil penalties where
1810 applicable.

1811 (a) Odor management – ventilation required. For all cannabis businesses,
1812 ventilation shall be installed so that the odor of cannabis cannot be
1813 detected by a person with a normal sense of smell at the exterior of a
1814 regulated cannabis business or at any adjoining use or property.

1815 (b) Hours of operation. A regulated cannabis business shall be closed to the
1816 public, and no sale or other distribution of cannabis shall occur upon the
1817 premises between the hours of 12 a.m. and 8 a.m. Provided, however, in the
1818 event that a planned delivery of cannabis cannot be completed on the day
1819 scheduled, the cannabis may be returned to the business.

Commented [JS6]: Hours of operation?

1820 (c) Display of licenses required. The name and contact information for the
1821 owner or owners and any manager of the regulated cannabis business, the
1822 regulated cannabis business license, and the sales tax business license
1823 shall be conspicuously posted inside the business near the main entrance.

1824 (d) Owner or manager required on premises. No regulated cannabis business
1825 shall be managed by any person other than the Licensee, or the manager
1826 listed on the application for the license or a renewal thereof. Such Licensee
1827 or manager shall be on the premises and responsible for all activities within
1828 the licensed business during all times when the business is open or in the
1829 possession of another person.

1830 **5.13.042 Records.**

1831 (a) Each Licensee shall keep a complete set of books of account, invoices,
1832 copies of orders and sales, shipping instructions, bills of lading, weigh
1833 bills, correspondence, bank statements, including cancelled checks and
1834 deposit slips, and all other records necessary to show fully the business
1835 transactions of such Licensee. Receipts shall be maintained in a
1836 computer program or by pre-numbered receipts and used for each sale.
1837 The records of the business shall clearly track regulated cannabis
1838 product inventory purchased and sales and disposal thereof to clearly
1839 track revenue from sales of any regulated cannabis from other
1840 paraphernalia or services offered by the regulated cannabis business.

1841 (b) All records shall be open at all times during business hours for the
1842 inspection and examination of the City or its duly authorized
1843 representatives.

1844 (c) The City shall require any Licensee to furnish such information as it
1845 considers necessary for the proper administration of this Chapter. The
1846 records shall clearly show the source, amount, price, and dates of all
1847 cannabis received or purchased, and the amount, price, dates, customer
1848 names, addresses, and contact information for all regulated cannabis
1849 sold.

1850 (d) By applying for a regulated cannabis business license, the Licensee is
1851 providing consent to disclose the information required by this Chapter,
1852 including information about customers. Any records provided by the
1853 Licensee that includes customer confidential information may be
1854 submitted in a manner that maintains the confidentiality of the documents
1855 under the Colorado Open Records Act, § 24-72-201, *et seq.*, C.R.S., or
1856 other applicable law. Any document that the Applicant considers eligible
1857 for protection under the Colorado Open Records Act shall be clearly
1858 marked as confidential, and the reasons for such confidentiality shall be
1859 stated on the document. In the event that the Licensee does appropriately
1860 submit documents so as not to be disclosed under the Colorado Open
1861 Records Act, the City shall not disclose it to other parties who are not
1862 agents of the City, except law enforcement agencies. If the City finds that
1863 such documents are subject to inspection, it will provide at least 24-hour
1864 notice to the Applicant prior to such disclosure.

1865 **5.13.043 Audits and inspection.**

1866 (a) The City may require an audit to be made of the books of account and
1867 records of a regulated cannabis business on such occasions as it may
1868 consider necessary. Such audit may be made by an auditor to be selected
1869 by the City that shall likewise have access to all books and records of the
1870 regulated cannabis business. The expense of any audit determined
1871 necessary by the City shall be paid by the regulated cannabis business.

1872 (b) Application for regulated cannabis business license or operation of a
1873 regulated cannabis business, or leasing property to a regulated cannabis
1874 business, constitutes consent by the Applicant, and all owners,
1875 managers, and employees of the business, and the owner of the property
1876 to permit the Authority or agent of the Authority, or anyone authorized to
1877 conduct routine inspections of the regulated cannabis business to
1878 ensure compliance with this Chapter or any other applicable law, rule, or
1879 regulation. The owner or manager on duty shall retrieve and provide the
1880 records of the business pertaining to the inspection. For purposes of
1881 Rule 241 of the Colorado Rules of Municipal Procedure, inspections of
1882 regulated cannabis businesses and recordings from security cameras in
1883 such businesses are part of the routine policy of inspection and
1884 enforcement of this Chapter for the purposes of protecting the public
1885 safety, individuals operating and using the services of the regulated
1886 cannabis business, and the adjoining properties and neighborhood. This
1887 section shall not limit any inspection authority authorized under any
1888 other provision of law or regulation, including those of police, fire,
1889 building, and code enforcement officials. Application for a regulated
1890 cannabis business license constitutes consent to inspection of the
1891 business as a public premises without a search warrant, and consent to
1892 seizure of any surveillance records, camera recordings, reports, or other
1893 materials required as a condition of a regulated cannabis license without
1894 a search warrant.

1895 (c) Initial inspection. The City may inspect any regulated cannabis
1896 businesses prior to final issuance of a license to verify that the facilities
1897 are constructed and can be operated in accordance with the Application
1898 submitted and the requirements of laws.

1899 (d) Regular inspections. The City is authorized to perform regular
1900 inspections on a quarterly basis during the first year following licensure,
1901 and on a yearly basis prior to license renewal following the first year of
1902 operation.

1903 (e) Random inspections. Regular licensing inspection(s) shall not prevent
1904 the City from inspecting regulated cannabis businesses at random
1905 intervals and without advance notice.

1906 (f) Inspection of records. The records to be maintained by each regulated
1907 cannabis business shall include the source and quantity of any cannabis
1908 distributed, produced, or possessed within the premises. Such reports
1909 shall include, without limitation, for both acquisitions from wholesalers
1910 and transactions to patients or caregivers, the following:

1911 1. Name and address of seller or purchaser;

1912 2. Date, weight, type of cannabis, and monetary amount or other
1913 consideration of transaction;

1914 3. For wholesaler transactions, the state and City, if any, sales and
1915 use tax license number of the seller.

1916 (g) Disposal of regulated cannabis and cannabis byproducts. All regulated
1917 cannabis and any product containing a usable form of cannabis must be
1918 made unusable and unrecognizable prior to removal from the business in
1919 compliance with all applicable laws. This provision shall not apply to
1920 licensed law enforcement, including without limitation, the Grand
1921 Junction Police Department and the Grand Junction Fire Department.

1922 (h) The manager of a regulated cannabis business is required to respond by
1923 telephone or email within 24 hours of contact by a City official concerning
1924 its cannabis business at the telephone number or email address provided
1925 to the City as the contact for the business. Each 24-hour period during
1926 which an owner or manager does not respond to the City official shall be
1927 considered a separate violation.

1928 **5.13.044 Modification of premises.**

1929 (a) Any modification of the licensed premises shall be governed by the
1930 standards and procedures set forth in the Colorado Marijuana Code, this
1931 Chapter, and any regulations adopted pursuant thereto.

1932 (b) The Authority shall administer applications to modify the premises in the
1933 same manner as the state licensing authority administers changes of
1934 location and modifications of premises for state licenses.

1935 (c) Any application for a proposed modification of the licensed premises shall
1936 comply with and shall be subject to review and approval of the Building
1937 Departments and any other agency that is required to approve such
1938 modification.

1939 **5.13.045 Renewals.**

1940
1941 (a) A regulated cannabis business license issued pursuant to this Chapter shall
1942 be valid for one year from the date of issuance and shall automatically expire
1943 on the last day of the month in which the License is issued of the year
1944 following issuance or renewal of the License.

1945
1946 (b) During the term of the License, the Licensee shall have the ongoing
1947 obligation to:
1948

- 1949 1. Provide the City with copies of all material that it voluntarily files or is
1950 required to file with the Colorado Department of Revenue Marijuana
1951 Enforcement Division; and,
1952
1953 2. Post a 24 inch x 36 inch sign within the licensed premises of a regulated
1954 cannabis business which includes the warning statements set forth in
1955 Rule 1006 C.1.i. of the Colorado Department of Revenue Marijuana
1956 Enforcement Division Permanent Rules Related to the Colorado
1957 Regulated Marijuana Code, as amended.
1958
1959 (c) Licensee must apply for the renewal of an existing license at least 45 days
1960 prior to the License's expiration date. The Licensee shall apply for renewal
1961 using forms provided by the City. If the Licensee fails to timely file a renewal
1962 application, the Licensee must provide a written explanation detailing the
1963 circumstances surrounding the late filing. If the Authority accepts the
1964 application, then it administratively continues the License beyond the
1965 expiration date, but for no longer than 45 days after the expiration date, while
1966 the Authority completes the renewal licensing process, in which case, the
1967 Licensee shall pay an additional fee to the City prior to issuance of the
1968 renewed license. The renewal license fee, and late fee if applicable, shall
1969 accompany the renewal application. Such fee(s) are nonrefundable.
1970
1971 (d) In the event that there has been a change to any of the plans identified in the
1972 license application which were submitted to and approved by the Authority
1973 with the application or an earlier renewal, the renewal or modification of the
1974 premises application shall include specifics of the changes or proposed
1975 changes in any of such plans.
1976
1977 (e) In the event any person who has an interest in the License or any manager,
1978 financier, agent as defined herein, or employee has been charged with or
1979 accused of violations of any law since issuance of the License, the renewal
1980 application shall include the name of the violator, the date of the violation,
1981 the court and case number where the violation was filed, and the disposition
1982 of the violation with the renewal application.
1983
1984 (f) In the event the regulated cannabis business Licensee has received any
1985 notice of violation of any law, the renewal application shall include a copy of
1986 the notice or suspension.
1987
1988 (g) The renewal application shall include verification that the business has a
1989 valid state license and the state license is in good standing.
1990

1991 (h) The Authority shall not accept renewal applications after the expiration of
1992 the License.
1993

1994 (i) No renewal application shall be accepted by the Authority that is not
1995 complete. Any application mailed to or deposited with the Authority that,
1996 upon examination, is found to have some omission or error, shall be
1997 returned to the Applicant for completion or correction.
1998

1999 (j) In the event there have been allegations of violations of this Chapter, if the
2000 Licensee has a history of violation(s), or if the Licensee has committed
2001 unlawful acts, and/or if there are allegations against the Licensee that would
2002 constitute good cause as defined herein by any of the Licensee(s) or the
2003 business submitting a renewal application, the City may hold a hearing
2004 pursuant to § 5.13.031 of this Chapter, prior to approving the renewal
2005 application. The hearing shall be to determine whether the application and
2006 proposed Licensee(s) comply with this Chapter. If the Authority holds a
2007 hearing and the application and the Licensees are found to meet the
2008 requirements of this Chapter, or the business has been operated in the past
2009 in violation of law, rule or regulation, then the renewal application may be
2010 denied or issued with conditions, and the Authority's decision shall be final
2011 subject to judicial review.
2012

2013 (k) All renewal applications shall be reviewed and evaluated by the Authority if
2014 no hearing is scheduled. The Authority may refuse to renew any license for
2015 good cause as that term is defined in this Chapter and any applicable local
2016 law or regulation.
2017

2018 (l) In the event a regulated cannabis business that has been open and
2019 operating and submitting monthly sales and use tax returns to the City
2020 ceases providing sales and use tax returns to the City for a period of three
2021 months or longer, the cannabis business license shall be set for a public
2022 hearing for the Authority to determine if the License shall be revoked.
2023

2024 (l) In the event the City incurs costs in the inspection, clean-up, or any other
2025 necessary or required action to remove regulated cannabis of any
2026 regulated cannabis business, or any person cultivating, producing,
2027 distributing, or possessing cannabis, or otherwise cause the business to
2028 be in compliance with applicable law, the Licensee shall reimburse the City
2029 all costs incurred by the City for such inspection and/or cleanup.
2030

2031 **5.13.046 Compliance monitoring.**
2032

2033 (1) The City shall monitor compliance with this Chapter, as it deems
2034 appropriate.
2035

2036 (2) The City shall have the discretion to consider any or all previous
2037 compliance check histories of a Licensee in determining how frequently
2038 to conduct compliance checks of a Licensee with respect to any
2039 licensee(s).
2040

2041 (3) Compliance checks shall be conducted as the City determines
2042 appropriate so as to allow the City to determine, at a minimum, if the
2043 regulated cannabis business is conducting business in a manner that
2044 complies with law.
2045

2046 (4) It shall not be a violation of the law for a person under the minimum sale
2047 age for cannabis purchases or possession to purchase or possess
2048 cannabis products if the underage person is participating in a
2049 compliance check supervised by any person authorized by the City or
2050 the State of Colorado to conduct compliance monitoring.
2051

2052 **5.13.047 Sales tax.**

2053 Each regulated cannabis business shall collect and remit City sales and
2054 use tax on all regulated cannabis, paraphernalia and other tangible property used
2055 or sold at the licensed premises as provided by the Grand Junction Municipal
2056 Code and other applicable law.

2057 **5.13.048 Violations and Penalties.**
2058

2059 (a) The Authority shall hear all actions relating to the suspension or
2060 revocation of licenses pursuant to this Chapter. The Authority shall
2061 have the authority to impose disciplinary actions, sanctions, penalties
2062 upon a Licensee including but not limited to additional terms and
2063 conditions on the license, a fine in lieu of a suspension, a suspension or
2064 a revocation of a license issued by the Authority for any violation by
2065 the Licensee or by any of the agents or employees of the Licensee of
2066 any provision of the Colorado Marijuana Code, the City's Code, any rule
2067 or regulation adopted pursuant thereto, any building, fire, health or
2068 zoning statute, code, or ordinance, or any of the rules and regulations
2069 adopted pursuant thereto, in addition to any other penalties prescribed
2070 by this Code.
2071

2072 (b) In addition to the possible denial, suspension, revocation or nonrenewal
2073 of a license under the provisions of this Chapter, any person, including

but not limited to, any Licensee, manager or employee of a regulated cannabis business, or any customer of such business, who violates any of the provisions of this Chapter, shall be guilty of a misdemeanor offense punishable in accordance with § 1.04.090 of this Code. A person committing a violation shall be guilty of a separate offense for each and every day during which the offense is committed or continued to be permitted by such person and shall be punished accordingly.

- (c) The City shall commence suspension or revocation proceedings by petitioning the Authority to issue an order to the Licensee to show cause that the Licensee's license should not be suspended or revoked. The Authority shall issue such an order to show cause if the petition demonstrates that evidence exists to determine that one or more grounds exist to suspend or revoke the Licensee's license. The order to show cause shall set the matter for a public hearing before the authority.
- (d) The City Manager shall give written notice of the public hearing no later than fifteen days prior to the hearing by mailing, either electronically or by first class mail, the notice to the Licensee at the address contained in the Licensee's license. At the hearing, the Licensee shall have the opportunity to be heard, to present evidence and witnesses, and to cross examine witnesses presented by the City. 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 necessary to the determination of any hearing that the Authority is authorized to conduct. The standard of proof at such hearings shall be a preponderance of the evidence. The burden of proof shall be upon the City. The Authority shall be permitted to accept any evidence that the Hearing Officer finds to be relevant to the show cause proceeding.
- (e) If the Authority finds that a violation has occurred, the Authority may:
- (1) Revoke the license for any period up to and including permanent revocation;
 - (2) Suspend the license for any period of time; (6 months?)
 - (3) Impose a fine or fine in lieu of suspension of at least \$500.00 but no more than \$100,000.00;
 - (4) Establish conditions that must be met before the license holder may apply for reinstatement of the license; and,

2117
2118 (5) The Authority may impose the costs to conduct a public hearing
2119 upon a Licensee who has violated any of the provisions
2120 prescribed by this Chapter.
2121

2122 (f) Payment of fines or costs pursuant to the provisions of this Chapter
2123 shall be in the form of a certified check or cashier's check made payable
2124 to the City of Grand Junction and paid within seven days of the imposed
2125 sanction.
2126

2127 (g) If the Authority finds that the license shall be suspended or revoked or a
2128 fine imposed in lieu of a suspension, the Licensee shall be provided
2129 written notice of such fine, suspension or revocation with the reasons
2130 therefore within 20 days following the date of the hearing.
2131

2132 (h) The Authority will establish factors to consider when determining the
2133 amount of fine to impose and a matrix of steps for fine amounts. These
2134 factors and matrix will be used consistently for all imposed penalties.
2135 The Colorado State Marijuana Enforcement Penalty Schedule may be
2136 used as a guide to create the local sentencing schedule.
2137

2138 (i) If a license is suspended, the Licensee must post notice that states the
2139 License is under suspension or revocation due to violation(s) of this
2140 Chapter, and that all sales of cannabis products are prohibited for the
2141 period of the suspension. The signage shall be prominently displayed at
2142 all entrances on the premises for the entirety of the suspension or
2143 revocation.
2144

2145 (j) When a License has been revoked, no new license shall be issued to the
2146 same Licensee for the period of two years after the revocation.
2147

2148 (k) All Licensees are assumed to be fully aware of the law and the City shall
2149 not therefore be required to issue warnings before issuing citations for
2150 violation(s) of this Chapter.
2151

2152 (l) If the Authority suspends or revokes a license or imposes a fine in lieu
2153 of a suspension of the Licensee, the Licensee may appeal the fine,
2154 suspension or revocation to the Mesa County District Court pursuant to
2155 Rule 106(a)(4) of the Colorado Rules of Civil Procedure. The Licensee's
2156 failure to timely appeal the decision is a waiver of the Licensee's right
2157 to contest the fine imposed or the suspension or revocation of the
2158 Licensee.
2159

(m) No fee or portion thereof previously paid by a Licensee in connection with a license shall be refunded if the licensee's license is suspended or revoked.

5.13.049 Remedies.

The City is specifically authorized to seek an injunction, abatement, restitution, or any remedy necessary to prevent, enjoin, remove or prosecute any violation or unlawful act under this Chapter, and any remedies provided for herein shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law or in equity. Any and all action(s) shall be filed in the Municipal Court.

5.13.050 No City liability; indemnification.

(a) By accepting a license issued pursuant to this Chapter, the Licensee waives and 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 business owners, operators, employees, clients or customers for a violation of state or federal laws, rules or regulations.

(b) By accepting a license issued pursuant to this Chapter, all Licensees, jointly and severally if more than one (1), agree to indemnify, defend and hold harmless the City, its officers, elected officials, employees, attorneys, agents and insurers against all liability, claims and demands on account of any injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever arising out of or in any manner connected with the operation of the regulated cannabis business that is the subject of the license.

5.13.051 Severability.

This chapter is necessary to protect the public health, safety, and welfare of the residents of the City and covers matters of local concern or matters of mixed State and local concern as provided by § [44-11-101](#), C.R.S.

If any provision of this chapter is found to be unconstitutional or illegal, such finding shall only invalidate that part or portion found to violate the law. All other provisions shall be deemed severed or severable and shall continue in full force and effect.

5.13.052 Administrative regulations; Action by City Council.

2202 (a) The City Manager is authorized to promulgate such rules, regulations, and
2203 forms as are necessary to effectuate the implementation, administration
2204 and enforcement of this Chapter.

2205
2206 (b) The City Council may consistent with the Charter and other applicable law
2207 amend this Chapter in order to stay current with applicable state laws,
2208 rules and regulations so long a no amendment, restriction, provision, rule
2209 or regulation shall be no less stringent than that imposed, if at all by
2210 Colorado law.

2211
2212 Introduced on first reading the _____ day of _____,
2213 2022 and ordered published in pamphlet form.

2214
2215 Adopted on second reading this ____ day of _____ 2022 and ordered published in
2216 pamphlet form.

2217
2218
2219
2220 ATTEST: _____
2221 Chuck McDaniel
2222 President of City Council

2223
2224 _____
2225 Laura J. Bauer, Interim City Clerk
City Clerk

ORDINANCE NO. _____

AN ORDINANCE TO AMEND TITLE 21 CHAPTER 4, CHAPTER 6, AND CHAPTER 10 OF THE ZONING AND DEVELOPMENT CODE REGARDING USE STANDARDS AND FOR SPECIFIC BUFFERING BETWEEN CERTAIN SCHOOLS, PARKS, AND REHABILITATION FACILITIES, AND TO ADOPT REGULATIONS FOR SIGNAGE OF CANNABIS BUSINESSES, AND DEFINITIONS FOR SUCH BUSINESSES.

RECITALS:

The City desires to maintain effective regulations in its Zoning and Development Code (Title 21 of the Grand Junction Municipal Code ("GJMC")); regulations that encourage and require appropriate use of land throughout the City while taking into consideration the needs and desires of the citizens of Grand Junction.

Although Federal law criminalizes the use and possession of marijuana as a Schedule 1 controlled substance under the Controlled Substance Act, on June 7, 2010, former Governor Ritter signed into law House Bill 10-1284 and Senate Bill 10-108 which, among other things, authorized the City to adopt an ordinance to license, regulate or prohibit the cultivation and/or sale of cannabis (C.R.S. 12-43.3-103(2)). The law also allowed a city to vote, either by a majority of the registered electors or a majority of the City Council, to prohibit the operation of medical cannabis centers, optional premises cultivation operations and medical cannabis infused products manufacturers.

At the time of House Bill 10-1284 and Senate Bill 10-108's passing, a moratorium was in effect in the City for the licensing, permitting and operation of cannabis businesses. The moratorium, which was initially declared in November 16, 2009 (through Ordinance 4437), was for a period of twelve months and applied to any person or entity applying to function, do business or hold itself out as a medical cannabis dispensary in the City of Grand Junction, regardless of the person, entity, or zoning. On October 13, 2020, City Council adopted Ordinance 4446 which extended the moratorium to July 1, 2011.

At the April 5, 2011 election, the electorate voted in favor of prohibiting the operation of medical cannabis businesses and the amendment of the Grand Junction Municipal Code by prohibiting certain uses of cannabis (Measure A).

On November 6, 2012, Colorado Amendment 64 was passed by the voters, amending Article 18 of the Colorado Constitution adding Section 16 which allows retail cannabis stores and made it legal for anyone 21 years or older to buy cannabis at such stores. In addition, Amendment 64 allows anyone over 21 years of age to legally possess and consume up to one ounce of cannabis. Amendment 64 does not change the Federal law; it still remains illegal under Federal law to produce and/or distribute cannabis.

On February 6, 2013, City Council approved Resolution 07-13 adopting cannabis policies for the City and restrictions for persons or entities from applying to function, do business,

40 or hold itself out as a cannabis facility, business or operation of any sort in the City limits.
41 Later that same year, City Council adopted Ordinance 4599 which prohibited the
42 operation of cannabis cultivation facilities, cannabis product manufacturing facilities,
43 cannabis testing facilities, and retail cannabis stores. Ordinance 4599 also amended
44 Sections in Title 5, Article 15 of the Grand Junction Municipal Code that prohibit certain
45 uses relating to cannabis.

46 In late 2015, the City, Mesa County and Colorado Mesa University, by and through the
47 efforts of the Grand Junction Economic Partnership (GJEP), were successful in
48 establishing the *Colorado Jumpstart* business development program. One business
49 which was awarded the first *Jumpstart* incentive planned to develop a laboratory and
50 deploy its advanced analytical processes for genetic research and its ability to mark/trace
51 chemical properties of agricultural products, one of which was cannabis. In October 2016,
52 City Council passed Ordinance 4722 which amended Ordinance 4599 and Section
53 21.04.010 of the Grand Junction Municipal Code to allow cannabis testing facilities in the
54 City.

55 On January 20, 2021 the City Council approved Resolution 09-21, the adoption of which
56 referred a ballot question to the regular municipal election on April 6, 2021 to repeal
57 Referred Measure A contingent on and subject to voter approval of taxation of cannabis
58 businesses. A majority of the votes cast at the election were in favor of repealing the
59 moratorium on cannabis businesses and in favor of taxation of cannabis businesses.

60 City Council has decided to allow certain retail cannabis businesses within the City. City
61 Council has requested that staff prepare an ordinance to repeal the prohibition of
62 cannabis businesses from the Grand Junction Municipal Code and to include rules and
63 regulations for licensing and operating retail cannabis businesses.

64 City staff and community members, including the Cannabis Working Group, have
65 researched, reviewed, and discussed various approaches to taxation, permitting and
66 regulation of retail cannabis within the City. Regulations for cannabis uses have been
67 established at the state level with the adoption and implementation of the Colorado
68 Cannabis Code in the Colorado Revised Statutes (C.R.S. 44-10-101, *et. seq.*); however,
69 regulation of retail cannabis uses at the state level alone are inadequate to address the
70 impacts on the City of regulated cannabis, making it appropriate for the City to regulate
71 the impacts of retail cannabis uses.

72 The City has a valid interest in regulating zoning and other impacts of cannabis
73 businesses in a manner that is consistent with constitutional and statutory standards. The
74 City Council desires to facilitate the provision of quality retail cannabis in a safe manner
75 while protecting existing uses within the City. Regulation of the manner of operation and
76 location of retail cannabis uses is necessary to protect the health, safety and welfare of
77 both the public and the customers. The proposed ordinance is intended to allow certain
78 regulated cannabis businesses that will have a minimal impact and where potential
79 negative impacts are minimized.

This proposed ordinance amends the City's Code to permit cannabis businesses in the specific zone districts where general indoor retail sales are permitted and provides for buffering from specific land uses including parks, certain schools and specific rehabilitation facilities. This ordinance also includes regulations for signage and definitions for cannabis businesses.

After public notice and public hearing as required by the Grand Junction Zoning and Development Code, the Grand Junction Planning Commission recommended approval of the proposed amendments.

After public notice and public hearing, the Grand Junction City Council finds that the amendments to allow certain retail cannabis businesses by and through the uses and the Use Table, are responsive to the community's desires and otherwise advance and protect the public health, safety and welfare of the City and its residents.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION THAT THE FOLLOWING SECTIONS OF THE ZONING AND DEVELOPMENT CODE (TITLE 21 OF THE GRAND JUNCTION MUNICIPAL CODE) ARE AMENDED AS FOLLOWS (new text additions underlined and deletions marked with strike-through notations):

21.04.010 (d) Use table.

~~Marijuana related business, whether retail, commercial, industrial or agricultural, except marijuana testing facility(ies) are prohibited in all zone districts in accordance with Chapter 5.15 GJMC. Marijuana testing facility(ies) is (are) allowed in the zone districts shown.~~

~~Marijuana testing facilities shall be categorized as/under the "industrial services, contractors and trade shops, oil and gas support operations without hazardous materials" category of the use zone matrix as "research, testing, and laboratory facilities —indoors (including marijuana testing facilities)" as allowed uses in B-2, C-1, C-2, MU, BP, IO, I-1 and 1-2 zone districts.~~

116 21.04.010 Use Table.

Key: A = Allowed, C = Conditional, Blank Cell = Not Permitted																								
Use Category	Principal Use	R-R	R-E	R-1	R-2	R-4	R-5	R-8	R-12	R-16	R-24	R-O	B-1	B-2	C-1	C-2	CSR	M-U	BP	I-O	I-1	I-2	M X-	Std.
Retail Sales and Services	Marijuana Related Business																							Ch 5.45
Retail Sales and Service	Retail Cannabis Store												A	A	A	A		A	A				A	Ch. 21.0 4.03 0(w)

117

118

119 21.04.030 Use-specific standards.

120

121 (w) Retail Cannabis Stores

122

123 (1) Applicability. These regulations apply to all Retail Cannabis Stores in the City
 124 in addition to the other provisions in the GJMC pertaining to cannabis stores,
 125 including but not limited to, GJMC Chapters 5.13 and 5.14.

126

127 (2) Zoning.

128

129 a. It is unlawful for a Retail Cannabis Store to operate in a building which
 130 contains a Dwelling Unit.

131

132 b. There shall be no more than two Retail Cannabis Stores operating
 133 within the boundaries of the Horizon Drive Business Improvement
 134 District, as may be amended.

135

136 c. There shall be no regulated cannabis businesses located on the
 137 ground floor of any buildings in the Downtown Grand Junction area
 138 defined as Main Street bounded by the west intersection line of First
 139 Street and bounded by the east by the centerline of 7th Street.

140

141 (3) Buffering.

142 a. No Retail Cannabis Stores shall be located:

143 i. Within 1000 feet of any private or public elementary, middle,
 144 junior high, high school or institution of higher learning.

145

- 146 ii. Within 1000 feet of Colorado Mesa University (Main Campus)
147 and Western Colorado Community College.
148
149 iii. Within 500 feet of all public parks or undeveloped park lands as
150 provided in the Parks, Recreation and Open Space Master Plan,
151 as amended.
152
153 iv. Within 500 feet of any services for prevention, treatment or
154 recovery from substance use and mental health concerns, as
155 licensed by the Colorado Department of Human Services, Office
156 of Behavioral Health (OBH).
157
158 b. Buffering Distance Computation. The buffering distance shall be
159 computed by direct measurement from the nearest property line of the
160 land use to the nearest portion of the building or unit in which the retail
161 cannabis is to be sold, using a route of direct pedestrian access,
162 measured as a person would walk safely and properly, without
163 trespassing, with right angles at crossings and with the observance of
164 traffic regulations and traffic signals.
165

166 21.06.070 Sign Regulation
167

168 (j) Cannabis Retail Store Signage and Advertising
169

- 170 (1) All signs and advertising for a Retail Cannabis Stores shall comply with all
171 applicable provisions of the Colorado Cannabis Code, any regulations
172 adopted pursuant thereto, the provisions of this Chapter and Chapter 6, and
173 the City's ordinances and regulations regarding signs and advertising.
174
175 (2) No sign shall use the terms "pharmacy", "pharmacist", "pharmaceutical", "rx",
176 or any other similar variation of such terms as its corporate, business, or
177 "doing business as" name, so as to prevent a reasonable person from
178 concluding such business is involved in the practice of pharmacy, as
179 regulated by Pharmaceuticals and Pharmacists, C.R.S. Article 22 of Chapter
180 12. Additionally, no Retail Cannabis Stores may use any of the above terms
181 or any similar variation thereof in any of its signs, placards, promotional, or
182 advertising materials. Additionally, no signs that mimic or allude to pharmacy
183 or medical related symbols, including but not limited to medical style crosses
184 regardless of proportions or colors, shall be used or displayed in nonmedical
185 retail cannabis stores.
186
187 (3) No sign shall include advertising material that is misleading, deceptive or
188 false or that, as evidenced by the content of the advertising material or by the

medium or the manner in which the advertising material is disseminated, is designed to appeal to persons under eighteen (18) years of age.

(4) Signs and Advertising not requiring a permit include:

- i. Sign-wavers or other natural persons standing in the public. No Retail Cannabis Stores shall advertise with sign-wavers or other natural persons within the buffering distances from specified land uses as provided in w.3(a) above.
- ii. Any advertisement contained within a newspaper, magazine, or other periodical of general circulation within the City or on the internet, which may include coupons.
- iii. Any non-consumable merchandise or accessories.
- iv. A booth at an adult event or job fair where the only items distributed are company or educational materials and no other items are distributed, shown or sold.
- v. Business cards within the business or handed directly to an individual who is over the age of 21.
- vi. Showing a government-issued verification of age or military status, or registration for a charitable event, or similar item the showing of which, without providing a separate printing to the business, entitles the holder to a discount for a particular product or service.
- vii. Company materials and educational materials distributed inside the cannabis business.

21.10.020 Terms Defined

Cannabis testing facility(ies) is an entity licensed to analyze and certify safety and potency of cannabis.

Medical Cannabis Store is an entity licensed co-located with a retail cannabis store that sells medical cannabis to registered patients or primary caregivers as defined in Section 14 of Article XVIII of the Colorado constitution, but is not a primary caregiver.

Retail cannabis cultivation facility is an entity licensed to cultivate, prepare, and package cannabis and sell cannabis to retail cannabis stores, to cannabis product manufacturing facilities, and to other cannabis cultivation facilities, but not to consumer.

Retail cannabis hospitality and sales business is a facility that cannot be mobile, that is licensed to permit the consumption of only the retail cannabis or retail cannabis products it has sold pursuant to the provisions of an enacted, initiated, or referred ordinance or resolution of the local jurisdiction in which the licensee operates.

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

Retail cannabis transporter business is an entity or person that is licensed to transport retail cannabis and retail cannabis products from one retail cannabis business to another retail cannabis business and to temporarily store the transported retail cannabis and retail cannabis products at its licensed premises but is not authorized to sell retail cannabis or retail cannabis products under any circumstances.

Retail cannabis store is an entity licensed to purchase cannabis from cannabis cultivation facilities and to sell cannabis to consumers and retail cannabis testing facilities that are licensed to analyze and certify the safety and potency of cannabis.

All other provisions of Title 21 Chapter 4, Chapter 6, and Chapter 10 shall remain in full force and effect.

Introduced on first reading the _____ day of _____, 2022 and ordered published in pamphlet form.

Adopted on second reading this _____ day of _____ 2022 and ordered published in pamphlet form.

ATTEST:

Chuck McDaniel
President of City Council

Laura J. Bauer, MMC
Interim City Clerk

ORDINANCE NO. _____

**AN ORDINANCE TO AMEND TITLE 3 OF THE GRAND JUNCTION MUNICIPAL
CODE TO INCLUDE A RETAIL MARIJUANA SALES AND USE TAX AND A
MARIJUANA EXCISE TAX.**

RECITALS:

In October 2010, the City Council adopted Ordinance 4437 which prohibited the operation of medical marijuana businesses in the City limits and amended the Grand Junction Municipal Code by the addition of certain sections prohibiting specified uses relating to marijuana. A petition protesting the passage of Ordinance 4437 was filed, found to be sufficient, and the Ordinance was suspended.

In December 2010 the City Council approved a ballot question referring Ordinance 4437 to the regular municipal election on April 5, 2011. Referred Measure A was approved by the voters, prohibiting the operation of medical marijuana businesses and amended the Grand Junction Municipal Code to prohibit certain uses relating to marijuana.

Colorado Amendment 64 was passed by the voters on November 6, 2012. Amendment 64 included an amendment to Article 18 of the Colorado Constitution by adding a new Section 16 regarding the personal use and regulation of marijuana. Amendment 64 allows retail marijuana stores and makes it legal for anyone 21 years or older to buy marijuana at those stores. The Amendment allows anyone over 21 years of age to legally possession and consume up to one ounce of marijuana. Amendment 64 required the State to develop and adopt laws, regulations, and processes concerning marijuana.

In February 2013, City Council approved Resolution 07-13, adopting marijuana policies for the City and restrictions for persons or entities from applying to function, do business, or hold itself out as a marijuana facility, business or operation in the City limits. Later that same year, City Council adopted Ordinance 4599 which prohibited the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, and retail marijuana stores. It also amended Sections in Title 5, Article 15 of the Grand Junction Municipal Code that prohibit certain uses relating to marijuana.

In late 2015, the City, Mesa County and Colorado Mesa University, by and through the efforts of the Grand Junction Economic Partnership (GJEP), were successful in establishing the *Colorado Jumpstart* business development program. One business who was awarded the first *Jumpstart* incentive planned to develop a laboratory and deploy its advanced analytical processes for genetic research and its ability to mark/trace chemical properties of agricultural products, one of which was marijuana. In October 2016, City Council passed Ordinance 4722 which amended Ordinance 4599 and Section 21.04.010 of the Grand Junction Municipal Code to allow marijuana testing facilities in the City.

City staff and community members, including the Marijuana Working Group, have researched, reviewed and discussed various approaches to taxation, permitting and regulation of marijuana within the City and provided to City Council such information and recommendation for the moratorium to be lifted on marijuana businesses.

On January 20, 2021 the City Council approved Resolution 09-21, the adoption of which referred a ballot question to the regular municipal election on April 6, 2021 to repeal Referred Measure A contingent on and subject to voter approval of taxation of marijuana businesses. A majority of the votes cast at the election were in favor of repealing the moratorium on marijuana businesses and in favor of taxation of marijuana businesses.

City Council has determined to allow retail marijuana businesses within the City. On _____, Ordinance No. _____ was approved by City Council which developed rules and regulation for licensing and operating retail marijuana businesses.

There are indirect costs to the City of the use of marijuana that are not covered by the license and application fees paid by the retail marijuana business. Many of those costs are related to the fact that marijuana is illegal at the federal level and the state has not been able to fully fund enforcement of laws adopted at the state level, leaving enforcement of marijuana laws to the local municipalities. Further, there are not comprehensive substance abuse programs related to the legal use of marijuana.

Imposing both an excise tax and a special sales and use tax on marijuana and marijuana businesses would provide resources necessary for the City to be able to pay the indirect costs, including education and programs, related to the use of marijuana.

City Council requested that staff prepare an ordinance that approves a sales and use tax of 6 percent and an excise tax of five percent.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION THAT:

Title 3 shall be amended as follows (additions documented in **bold print** and deletions marked with ~~strike-through notations~~):

3.12.020 Definitions.

***Marijuana* also known as *cannabis*, shall have the same meaning as the term “usable form of marijuana” as set forth in Article XVIII, Section 16(2) of the Colorado Constitution or as may be more fully defined in any applicable State law or regulation. “Marijuana” may alternatively be spelled “marihuana”.**

***Retail marijuana* has the same meaning as set forth in Section 16(2)(f) of Article XVIII of the Colorado Constitution.**

***Retail marijuana products* has the same meaning as set forth in Section 16(2)(k) of Article XVIII of the Colorado Constitution.**

Retail marijuana store has the same meaning as set forth in Section 16(2)(n) of Article XVIII of the Colorado Constitution (an entity licensed to purchase marijuana from marijuana cultivation facilities and marijuana and marijuana products from marijuana product manufacturing facilities and to sell marijuana and marijuana products to consumers).

3.12.030 Levied.

(d) In addition to the general sales and use tax of 3.25 percent levied in subsection (a) above, there is hereby levied a special sales and use tax of 6 percent on the full purchase price paid or charged for tangible personal property and taxable services purchased or sold at retail by any retail marijuana store exercising a taxable privilege in the City by the sale of such property or services. Each retail marijuana store shall collect the tax on every sale or transfer of retail marijuana product(s). The additional sales and use tax shall be collected by the vendor and remitted to the City. All revenue derived through the general sales tax of 3.5 percent on retail marijuana sales shall be used for general municipal purposes and may be restricted by previous voter action. All revenue derived through the special sales and use tax of 6 percent on retail marijuana sales shall be used for the enforcement of regulations on the regulated marijuana industry and other costs related to the implementation of the use and regulation of regulated marijuana an lawful utilization of marijuana, the building, operating and maintenance of the highest priorities of the adopted Parks and Recreation Open Space Plan which includes indoor and outdoor recreating and park facilities, capital improvements and enhancements to the City's Parks, trails and open space, public safety, enforcement and administrative purposes and for comprehensive substance abuse programs including, without limitation, prevention, treatment, education, responsible use, intervention, and monitoring, with an emphasis on youth with the remainder used to fund other governmental expenses including police, fire, transportation and general government.

3.12.070 Exemptions from sales tax.

Wholesale sales means a sale by a wholesaler to retailers, jobbers, dealers or other wholesalers for resale and does not include a sale by wholesalers to users or consumers not for resale; latter types of sales shall be deemed to be retail sales and shall be subject to the provisions of this chapter. **Wholesale sales of retail marijuana are subject to an excise tax under the provisions of this Chapter.**

Chapter 3.16 Retail Marijuana Excise Tax

3.16.010 Purpose and legislative intent.

The City Council intends that an excise tax be imposed on the first sale or transfer of unprocessed retail marijuana by a retail cultivation facility within the City. The purpose of this tax is to increase the revenue base for the City and such revenue

derived through the retail marijuana excise tax shall be used for the enforcement of regulations on the regulated marijuana industry and other costs related to the implementation of the use and regulation of regulated marijuana and lawful utilization of marijuana, the building, operating and maintenance of the highest priorities of the adopted Parks and Recreation Open Space Plan which includes indoor and outdoor recreating and park facilities, capital improvements and enhancements to the City's Parks, trails and open space, public safety, enforcement and administrative purposes and for comprehensive substance abuse programs including, without limitation, prevention, treatment, education, responsible use, intervention, and monitoring, with an emphasis on youth with the remainder used to fund other governmental expenses including police, fire, transportation and general government.

3.16.020 Definitions.

As used in this Chapter, *average market rate* means the amount determined by the State pursuant to Section 39-28.8-101(1), C.R.S., as the average price of unprocessed retail marijuana that is sold or transferred from a retail marijuana cultivation facility to a retail marijuana store or retail marijuana products manufacturer. All other terms in this Chapter shall have the same meaning as set forth in Title 5 Chapter 13 of this Code.

3.16.030 Imposition and rate of tax.

There is hereby levied an excise tax of 5 percent upon the average market rate of unprocessed retail marijuana that is sold or transferred from a retail marijuana cultivation facility to a retail marijuana store or retail marijuana products manufacturer.

3.16.040 Vendor liable for tax.

Each retail marijuana cultivation facility shall collect the tax imposed in Section 3.16.030 above upon every sale or transfer of unprocessed retail marijuana from the cultivation facility. The person charged with the duty to collect taxes also has the burden of proving that any transaction is not subject to the tax imposed by this Article.

3.16.050 Taxes collected held in trust.

All sums of money paid by any person or facility to a cultivation facility as excise taxes pursuant to this Article are public monies that are the property of the City. The person required to collect and remit retail marijuana excise taxes shall hold such monies in trust for the sole use and benefit of the City until paying them to the Finance Director.

3.16.060 Licensing and reporting.

(a) Every person with a duty to collect the excise tax imposed by this Article shall obtain a tax license pursuant to Title 5 Chapter 13 of this Code, report such taxes collected on forms prescribed by the Finance Director and remit such taxes to the City on or before the 20th day of the month for the preceding month under report. A tax license shall be valid so long as:

(1) the business remains in continuous operation

(2) the license is not canceled by the licensee or revoked by the City; and

(3) the business holds a valid retail marijuana license from the City pursuant to Title 5 Chapter 13 of this Code.

(b) The tax license may be canceled or revoked by the City as provided in Chapter 12 Section 250 of this Title.

(c) Whenever a business entity that is required to be licensed under this Article is sold, purchased or transferred, so that the ownership interest of the purchaser or seller changes in any respect, the purchaser shall obtain a new tax license.

(d) Every person engaged in the retail marijuana cultivation business in the City shall keep books and records according to the standards of the Finance Director and subject to the Finance Director's right to audit set forth in GJMC Section 3.12.270.

(e) The provisions set forth in Sections 3.12.260, 3.12.270, 3.12.290, 3.12.300, 3.12.330 thru 3.12.580 of this Code shall all apply to retail marijuana excise taxation by the City.

3.16.070 Duties and powers of the Finance Director.

The Finance Director is authorized to administer the provisions of this Chapter.

3.16.080 Prohibited acts.

It is unlawful and a violation of this Code for any retail marijuana business to sell or transfer unprocessed retail marijuana without the tax license required by this Article, the retail marijuana license required by Title 5 Chapter 13 of this Code and any other licenses required by law, to willfully make any false or fraudulent return or false statement on any return, or to willfully evade the payment of the tax, or any part thereof, as imposed by this Chapter.

ALL OTHER PROVISIONS OF TITLE 3 SHALL REMAIN IN FULL FORCE AND EFFECT.

Introduced on first reading the _____ day of _____,
2022 and ordered published in pamphlet form.

Adopted on second reading this ____ day of _____ 2022 and ordered published in
pamphlet form.

ATTEST:

C.B. McDaniel
President of City Council

Laura Bauer
Interim City Clerk

Memorandum

TO: Mayor McDaniel and Members of City Council
FROM: John Shaver, City Attorney
CC: Tamra Allen, Community Development Department Director
Laura Bauer, Interim City Clerk
Greg Caton, City Manager
SUBJECT: Renee Grossman/High Q Letter

On February 7, 2022 Renee Grossman sent the attached letter to City Council (Letter). As you are aware Ms. Grossman is an owner of/has interest(s) in regulated cannabis businesses, has addressed City Council during public comment on the City's proposed cannabis regulations, and was a member of the City's Marijuana Advisory Group. Staff has reviewed the Letter and with this memo offers certain responses and refutations to some of what she wrote.

While Ms. Grossman does have experience in the industry, and the Letter is undoubtedly written in light of that experience, her claims are general, tend to be self-serving, and based on City Staff's research, not wholly accurate. I will not address each of her contentions but will instead address those, which as she writes in the introduction to the Letter may "be problematic and result in long delays and/or litigation."

For the most part the Letter urges the Council to adopt a merit selection process. While Ms. Grossman as a member of the industry favors a merit process, there is no method that we have found by which (a) merit criteria and review and scoring of merit based applications can be anything other than subjective and (b) a merit based process tends to favor the larger industry/businesses as often merit criteria include business experience, financial factors, such as capitalization, and capacity to contribute to community support/betterment programs.

Ms. Grossman contends that "Lotteries produce suboptimal results and often result in lawsuits and huge delays. First, those with money find ways to submit numerous applications to stack the odds in their favor." Our response to these contentions is (a) "suboptimal results" is in and of itself a subjective determination, and the obvious related questions are "suboptimal for whom," "suboptimal in what regard" and/or "how are the purported suboptimal results determined?" and (b) if the City Council adopts regulations that allow only one application per site, then the prospect of "stack[ing] the odds" is reduced. The draft ordinance includes provisions that address entity layering.

The Letter further contends that "There is no guarantee with a lottery that the winners can or will open for business." From staff's perspective a merit process similarly offers no guarantee(s). Funding, staffing, and production challenges, well as other market factors, are considerations for these businesses just as any other. If "opening" is a concern, then the regulations may require that such occur within a definite period following a license award.

A process such as proposed in the draft ordinance that requires applicants to pre-qualify and demonstrate (a) good moral character, and (b) legal possession of property through deed, lease, contract, *etc.* together with (c) the payment of fees, and (d) the opportunity cost of preparing the application, results in applicants having a significant stake in the success of applications and licensure.

Regarding Ms. Grossman's concern about "Flipping licenses" the draft ordinance provides that a licensee must hold a license for no less than 3 years and then if transferred or the entity structure is changed that such may not be to another licensee. The holding period could be extended as Council deems proper.

The Letter mentions the Broomfield litigation. Broomfield was sued because multiple entities were allowed to apply for the same location. The draft ordinance includes provisions that should limit the concerns.

Memorandum

Litigation in Littleton was a result of medical licenses operating within the city under a cap prior to the city having an ordinance for regulated marijuana. Subsequently, four of the five business were allowed to remain in business. In 2020 the industry led an initiative petition drive for retail marijuana that made it to the ballot. Based on the ballot language proposed in the initiative it favored the existing medical licensees. No merit system was used.

Interim City Clerk Bauer assisted with the development of the Fort Lupton process. Ms. Bauer will tell you that Fort Lupton recently completed its initial acceptance of applications for the lottery with five applicants successfully completing the vetting process for the lottery of four licenses. The Fort Lupton Council has been petitioned to increase the allowed number of licenses to five.

The State Marijuana Enforcement Division (MED) reviews the persons that own applicant entities not just the entities themselves and with the requisite financial disclosures the interests of persons holding 10% or more of the entity is known. A "Finding of Suitability" for the controlling beneficial owner and the entity is a predicate to licensing.

The regulatory process that the ordinance proposes is, with the principal exception of the capping of the number of licenses, highly reminiscent of the process used for liquor licensing. Colorado liquor regulations include a consideration for undue concentration of liquor licenses but that is generally a fact based, not a law-based determination. While there are indeed a number of policy and regulatory complexities with the adoption of licensing regulations, likening marijuana regulations to liquor regulations, is from my perspective not one of them. Article 18, Section 16(1)(b) of the Colorado Constitution provides that marijuana should be regulated in a manner similar to alcohol. Although the Constitution does not use the word licensed, I construe that "regulation" is inclusive of licensing and therefore the more similarity between the licensing processes the better.

As Ms. Grossman did, I have included a selected bibliography of internet source materials. While those are not necessarily authoritative or dispositive, they do provide insights into the industry and its perspective on these matters. From my reading of many of these materials, litigation, whether threatened or filed, seems to be part of the industry strategy regardless of what licensing/regulatory model is employed.

Thank you for your consideration of these thoughts. Of course, I welcome your questions, comments or request for additional information.

<https://www.cannabiz.media/blog/lottery-or-competition-whats-the-best-way-to-grant-marijuana-licenses>

<https://www.courthousenews.com/illinois-holds-lottery-for-pot-dispensary-licenses-amid-legal-challenges-to-process/>

<https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2016/12/22/licensing-medical-marijuana-stirs-up-trouble-for-states>

<https://mjbizdaily.com/cannabis-licensing-decisions-challenged-by-marijuana-firms/>

<https://www.jdsupra.com/legalnews/challenging-state-and-local-cannabis-48710/>



February 7, 2022

City Council
City of Grand Junction

Dear Mayor and Council Members:

I would like to offer additional comments for your consideration. I am focusing my comments on items that can be problematic and result in long delays and/or litigation.

I. Stay with merit and don't reconsider doing a lottery

Lotteries produce suboptimal results and often result in lawsuits and huge delays. First, those with money find ways to submit numerous applications to stack the odds in their favor. That can lead to claims of lottery manipulation. Second, there are no guarantees with a lottery that the winners can or will open for business. Even lotteries that pre-qualify applicants often result in applicants who do not open for business (and tie up licenses) or just flip their licenses. Unqualified winners, license flipping and lawsuits can take months or years to resolve. This means the local jurisdictions don't see any tax revenues for months or even years.

Most Colorado municipalities that capped the number of licenses, preferred a merit system to a lottery. Of the nine towns in Colorado that legalized recreational marijuana 2021, only one, Broomfield, chose to do a lottery and they got sued and their process is stalled.¹ Lakewood and Littleton grandfathered and capped their stores to existing medical applicants (which were originally selected by a merit process). Buena Vista and Ft. Lupton initially considered lotteries but after engaging in the process and receiving applications, they changed their ordinances to allow for a selection process. No local governments in the Front Range other than Broomfield have used lotteries.

In addition, most other states that have legalized marijuana and capped the licenses have used merit systems. No system is perfect and some merit systems have resulted in litigation, but typically such litigation has not resulted in the need to unwind the process or led to substantial delays in tax revenues. Here are some links to articles about this topic and examples of lotteries resulting in litigation.

- "Aside from the obvious problem of the most qualified businesses not always getting licenses when lotteries are used, there is also the problem of awarding licenses based on luck rather than merit. With a lottery, you're (hopefully) getting a business that meets minimum qualifications rather than one that you're certain did the most planning to build what can become a sustainable business." <https://www.cannabiz.media/blog/lottery-or-competition-whats-the-best-way-to-grant-marijuana-licenses>
- Two years after the lottery in Palisade, only one out of three licenses opened and that was the store that didn't have to go through the lottery! Moreover, in one of their lotteries, the town picked the top four so if #1 didn't open, the license went to #2 and so on and NONE of the four could open a store because they had fighting in their ownership group or didn't have the money or expertise. It took two years for the second store to open and the town

¹ Broomfield, Buena Vista, Cedaredge, Ft. Lupton, Lakewood, Littleton, Paonia, Romeo and Winter Park.

enacted a moratorium because of the lawsuits and threats of lawsuits. High Q was next in line and the town promised us the license but enacted the moratorium instead. We didn't sue but sometimes I think that was a mistake.

- In Broomfield, one applicant sued charging that the lottery system is rigged to raise the odds for some contenders and the entire process has been on hold since October.
<https://www.denverpost.com/2021/10/05/broomfield-marijuana-licenses-lottery-lawsuit-terrapin/>
- Seven months after licenses were granted in Santa Ana, CA, which used a lottery, only two stores opened because of lawsuits. <https://www.ocregister.com/2015/09/14/seven-months-after-medical-marijuana-lottery-only-2-of-20-winners-open-pot-shops-in-santa-ana/>
- Illinois faced several lawsuits from its lotteries, which has led to substantial delays in the issuance of 185 licenses. The State had to add licenses and additional lotteries but is still in litigation. <https://www.chicagotribune.com/marijuana/illinois/ct-illinois-marijuana-lawsuit-to-stop-license-lotteries-20210720-bg4justq2fbxxfbvnea2i4ij6a-story.html>
- Kittery, ME is facing the threat of a lawsuit claiming lottery manipulation if it doesn't revoke the licenses it issued. If it does revoke them, it's highly likely those awarded will sue as well. <https://coloradomarijuanawatch.com/sweet-dirt-threatens-to-sue-kittery-over-its-marijuana-shop-lottery/>
- Tallahassee, FL faced a lawsuit over its lottery as far back as 2014. <https://www.theledger.com/story/news/2014/09/16/miami-based-grower-challenges-states-lottery-system-for-pot/26987866007/>

Applicants typically sue over the criteria used to pre-qualify applicants in the lotteries as well as claims of lottery manipulation and corruption. This happened in Broomfield and Palisade and so much so in Florida that they abandoned their lottery. Some people sue because they were excluded from the lottery and that has resulted in states having to redo their lotteries, which then led to lawsuits by those who won in the first lottery.

Imagine a scenario where Grand Junction receives 50 applications and 45 are deemed qualified to enter the lottery. The lottery then awards 10 licenses. ABC Company who was denied entry into the lottery sues the city claiming they should have been allowed into the lottery. Grand Junction must defend that lawsuit, which takes 9 months. In the meantime, the 10 awarded licenses would have to hold off opening. Then the outcome of that lawsuit is that ABC Company should have been allowed into the lottery, so the city decides to redo the lottery, which takes another 3 months. Now 123 LLC, who won in the first lottery, does not win in the second and sues the city. Grand Junction has to defend that lawsuit, which takes another 9 months. To settle, Grand Junction creates another license to give to 123 LLC. Now XYZ Corporation sues because they were picked 11th in the second lottery so they believe that new license should be theirs. Grand Junction has to defend that lawsuit. This could go on for years with no tax revenues to the city.

A well-crafted, objective merit system that scores all the applications on the same criteria and awards licenses to the highest scoring applicants is far easier to defend against litigation. The reason we in the industry universally prefer merit is because we want to get opened for business quickly to make money and we know from experience that lotteries yield delays and lawsuits. We also know that those

chosen will open for business and be capable and competent companies that will benefit the city with lots of tax revenues. And we know that it's much harder to claim malfeasance and result in baseless lawsuits.

II. Marijuana ownership and ways to avoid problems and delays

When it comes to the ownership of a marijuana business license, the Marijuana Enforcement Division ("MED") looks at the individuals that own the license, not the corporate entity. Any person with 10% or more ownership is called a Controlling Beneficial Owner ("CBO") and must get an Owner's license, which includes an extensive background check. The state also has criteria indicated who is allowed and not allowed to have ownership in a marijuana license.

If the ownership of a license changes, it must be disclosed to the MED. If a CBO or person with 10% or more drops out of the ownership or buys into it, the licensee must file a Change of Ownership with the MED and typically with the local municipality. Smaller changes of ownership also need to be disclosed.

a. Don't allow license flipping

In some municipalities, license winners sold their store licenses before ever opening. This meant they got a lot of money but the city or town didn't see any tax revenues for a long time because the change of ownerships delayed the opening of the stores. In the Town of Carbondale, Silverpeak was awarded a store license and did not open for over two years and then sold it for several hundred thousand dollars to Tumbleweed. That license did not open for almost three years after it was awarded. *Many municipalities prohibit a change of ownership in the first year.*

b. Don't renew licenses if they don't open within a year

Similarly, to flipping, some municipalities kept renewing licenses that were not operational. This is problematic because the city or town does not get any revenues but no one else can get a license because the number of licenses is capped. Also in Carbondale, Leaf Aspen tied up a license for over two years and never opened. *Many municipalities have provisions that say a license cannot be renewed if it's not operational.*

c. Don't allow the same owners to apply more than once

I recommend that you look through the corporate entity to the individual owners, just like the MED. If you allow the same owners to apply more than once, then the big chains or really rich people will tie up numerous properties and apply many times. This will stack the deck in their favor and make it nearly impossible for the smaller operator or local to get a license. It will also make it hard for other types of businesses to find locations in which to open in Grand Junction. Most municipalities only allow each person one opportunity to apply.

Thank you for your consideration of my comments.

Sincerely,

A handwritten signature in black ink, appearing to read "R. S. Grossman", with a stylized flourish at the end.

Renée S. Grossman