



**Agenda for the
Regular Meeting of the
Englewood City Council
Monday, May 16, 2011
7:30 pm**

Englewood Civic Center – Council Chambers
1000 Englewood Parkway
Englewood, CO 80110

1. Call to Order.
2. Invocation.
3. Pledge of Allegiance.
4. Roll Call.
5. Consideration of Minutes of Previous Session.
 - a. Minutes from the Regular City Council Meeting of May 2, 2011.
6. Recognition of Scheduled Public Comment. (This is an opportunity for the public to address City Council. Council may ask questions for clarification, but there will not be any dialogue. Please limit your presentation to five minutes.)
 - a. Ryan Laird will be present to discuss concerns regarding the Utilities Department's billing practices.
7. Recognition of Unscheduled Public Comment. (This is an opportunity for the public to address City Council. Council may ask questions for clarification, but there will not be any dialogue. Please limit your presentation to three minutes. Time for unscheduled public comment may be limited to 45 minutes, and if limited, shall be continued to General Discussion.)

Council Response to Public Comment.
8. Communications, Proclamations, and Appointments.

9. Consent Agenda Items.
 - a. Approval of Ordinances on First Reading
 - b. Approval of Ordinances on Second Reading.
 - i. Council Bill No. 28, authorizing an amendment to the 1990 Big Dry Creek Interceptor Agreement regarding fees.
 - c. Resolutions and Motions.
 - i. Recommendation from the Community Development Department to approve a resolution authorizing the proposed amendments to current development fees and associated costs. **STAFF SOURCE: Audra L. Kirk, Planner I.**
10. Public Hearing Items. (No Public Hearing Scheduled)
11. Ordinances, Resolutions and Motions
 - a. Approval of Ordinances on First Reading.
 - b. Approval of Ordinances on Second Reading.
 - i. Council Bill No. 19, as amended, modifying sections of the Englewood Municipal Code pertaining to medical marijuana.
 - c. Resolutions and Motions.
12. General Discussion.
 - a. Mayor's Choice.
 - b. Council Members' Choice.
13. City Manager's Report.
14. City Attorney's Report.
15. Adjournment

BY AUTHORITY

ORDINANCE NO. _____
 SERIES OF 2011

COUNCIL BILL NO. 28
 INTRODUCED BY COUNCIL
 MEMBER OLSON

AN ORDINANCE AUTHORIZING AN AMENDMENT TO THE 1990 BIG DRY CREEK
 INTERCEPTOR AGREEMENT REGARDING FEES.

WHEREAS, the Big Dry Creek Basin Interceptor is a major trunk line serving the Southgate, South Arapahoe, South Englewood Sanitation Districts and part of the City of Englewood for sanitary sewer transport; and

WHEREAS, the Englewood City Council approved entering the Big Dry Creek Basin Interceptor Agreement between Englewood, Southgate Sanitation District, South Arapahoe Sanitation District and the South Englewood Sanitation District No.1, by the passage of Ordinance No. 30, Series of 1990, which included "line and advance tap fees" for capital construction; and

WHEREAS, the Englewood City Council authorized the passage of a Resolution in 2004, establishing repair, maintenance and rehabilitation fees for Big Dry Creek Basin Interceptor; and

WHEREAS, the Englewood City Council approved an amendment to the 1990 Big Dry Creek Interceptor Agreement pertaining to those maintenance fees, by the passage of Ordinance No. 26, Series of 2007; and

WHEREAS, the Englewood City Council authorized an Amendment to the 1990 Big Dry Creek Interceptor Agreement regarding fees, by the passage of Ordinance No. 13 Series of 2009; and

WHEREAS, after the completion of three capital projects, Southgate Sanitation District reassessed the condition of the interceptor and determined that the interceptor has capacity adequate to meet the existing and future demands and that no further capital projects are needed so that Southgate terminated the Advanced Tap Fee collection for capital projects and disbursed the unused tap fee capital revenues to the participating districts; and

WHEREAS, under the 1990 Agreement, the original financial arrangements to fund the repair, maintenance and rehabilitation program provided for scheduled periodic increases; the next increase is to be effective for the 2011 billing period when the per thousand gallon charge will increase from \$0.159123 per 1,000 gallons of winter water consumption to \$0.189861 per 1,000 gallons of winter water consumption; and

WHEREAS, the Englewood Water and Sewer Board recommended approval of the Big Dry Creek Interceptor maintenance fee increase to \$0.189861 per thousand gallons at its February 9, 2011 meeting;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ENGLEWOOD, COLORADO, AS FOLLOWS:

Section 1. The City Council of the City of Englewood, Colorado hereby authorizes amending the 1990 Big Dry Creek Basin Interceptor Agreement by accepting the scheduled periodic financial increase of \$0.189861 per 1,000 gallons of winter water consumption.

Introduced, read in full, and passed on first reading on the 2nd day of May, 2011.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 6th day of May, 2011.

Published as a Bill for an Ordinance on the City's official website beginning on the 4th day of May, 2011 for thirty (30) days.

Read by title and passed on final reading on the 16th day of May, 2011.

Published by title in the City's official newspaper as Ordinance No. ____, Series of 2011, on the 20th day of May, 2011.

Published by title on the City's official website beginning on the 18th day of May, 2011 for thirty (30) days.

James K. Woodward, Mayor

ATTEST:

Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of the Ordinance passed on final reading and published by title as Ordinance No. ____, Series of 2011.

Loucrishia A. Ellis

COUNCIL COMMUNICATION

Date: May 16, 2011	Agenda Item: 9 c i	Subject: Community Development Fee Schedule
Initiated By: Community Development		Staff Source: Audra L. Kirk, Planner I

PREVIOUS COUNCIL ACTION

The proposed fee schedule was reviewed by Council at the Study Session on April 25, 2011.

RECOMMENDED ACTION

Staff recommends that City Council consider and approve by resolution the proposed Community Development Fee Schedule as outlined in Exhibit A.

BACKGROUND

The City of Englewood's current development fees and associated costs were updated in November 2008; however, since that time there have been amendments to Title 16. First, 16-6-7: Landscaping and Screening was changed and the new Fee-in-Lieu was updated to be current with surrounding communities. Second, 16-4-1 Flood Plain Overlay District has been amended, and a new Flood Plain Development permit is required and permit fees have not been implemented for this.

On November 16, 2010 the Planning and Zoning commissioners recommended that City Council raise the landscaping fee-in-lieu from \$1.50 to \$3.35 per square foot of required landscaped area. This fee was determined by landscape cost data obtained from RSMeans Cost Works, a leading provider of construction information throughout North America since 1942. The data gathered, detailed on the attached Planning and Zoning staff report, is adjusted for the Denver Metro area and reflects non-union labor costs for the third quarter 2010. The fee for landscaping fee-in-lieu was approved with the Landscape Amendments in 2011; however the fee of \$3.35 was not approved. Staff is requesting an update to the current Community Development schedule to reflect an increase to \$3.35.

The Flood Plain amendments were also approved in 2010. During the amendment process, staff was reminded that a fee for a Flood Plain Development permit has never been set. Staff surveyed several jurisdictions including Longmont, Littleton, Lakewood, Boulder and Denver to determine what fees were typically charged for a Flood Plain Development Permit. Although Boulder was very high with a fee of \$5,400, the rest of the jurisdictions ranged anywhere from \$50 to \$100. Staff is requesting that the City implement a fee of \$100. Staff believes that this fee will cover the cost for staff in both Community Development and Public Works to review the permit application and associated construction drawings.

ATTACHMENTS

Community Development Fee Schedule - Exhibit A
Memo dated November 16, 2011, regarding Landscape Fee-in-Lieu
Resolution

**City of Englewood
Development Review Fee Schedule**

Zoning Variance and Adjustments and Appeals

Application Type	Application Fee	Proposed Fee
Administrative Adjustment	\$125	
Appeal	\$125	
Variance	\$125	

Zoning/Rezoning

Application Type	Application Fee	Proposed Fee
Amendment to an Approved PUD or TSA Expansion or PD	\$600 + \$300/acre	
Base District Rezone	\$600 + \$300/acre	
Planned Unit Development	\$1450	
Transit Station Area	\$1450	

Land Subdivision and Development

Application Type	Application Fee	Proposed Fee
Administrative Property Combination	\$175	
Administrative Subdivision	\$200	
Annexation	\$650 + \$300/acre	
Boundary Line Adjustment	\$240	
Major Subdivision	\$1000	
Minor Subdivision	\$600	
Vacation of Easement	\$125	
Vacation of Right of Way	\$450	

Use Permits

Application Type	Application Fee	Proposed Fee
Conditional Use Permit	\$475	
Conditional Use Annual Inspection	\$25	
Historic Designation Application	\$125	
Adaptive Re-use of Historic Structure		
Landscape Fee – in – Lieu	\$1.50 per square foot of required landscaped area	\$3.35 per square foot of required landscaped area
Limited Use Permit	\$150	
Temporary Use Permit	\$75	

Written Requests

Application Type	Application Fee	Proposed Fee
Address Assignment Request	\$50	
Change of Address Request	\$50	
Encroachment Agreement - Administrative	\$50	
Encroachment Agreement - City Council	\$150	
Flood Plain Certificate of Compliance	\$200	
Flood Plain Development Permit		\$100
Group Living Facility Registration		
Nonconforming Use Registration	\$50	
Written Zoning Verification	\$50	



CITY OF ENGLEWOOD
COMMUNITY DEVELOPMENT

TO: Planning and Zoning Commission
FROM: Brook Bell, Planner II
DATE: November 16, 2010
SUBJECT: Landscape Fee-in-Lieu Update

On August 17, 2010 the Planning and Zoning Commission conducted a public hearing on proposed amendments to the Landscape and Screening Chapter of the Unified Development Code. The Commission voted 7 to 0 to forward the proposed amendments to City Council with a favorable recommendation for adoption. The proposed amendments are scheduled for a 1st reading before Council on November 15, 2010.

Following the August public hearing, the Planning Commission discussed the landscape fee-in-lieu provision in the proposed amendments and expressed support for raising the fee-in-lieu amount to reflect present day landscape costs. Staff indicated that research would be conducted on present day costs and those findings would be presented to the Commission and Council so that the fee-in-lieu amount could be set by Council resolution.

In researching present day landscape costs staff utilized the latest data from RSMMeans Cost Works. RSMMeans is a leading provider of construction information throughout North America and been engaged in construction cost publishing since 1942. The landscape cost data that follows is regionally adjusted for the Denver Metro area and reflects non-union labor for the 3rd Quarter of 2010. Present day landscape costs are as follows:

Irrigated Turf (Living Landscape)			
Item	Quantity	Unit	Unit Cost
Soil Preparation	1	SF	\$0.27
Sodded Turf on Level Ground	1	SF	\$0.51
Spray Irrigation for Turf	1	SF	\$0.86

Total Cost for Irrigated Turf	1	SF	\$1.64
Irrigated Planting Beds (Living Landscape)			
Item	Quantity	Unit	Unit Cost
Soil Preparation	1	SF	\$0.27
Weed Barrier	1	SF	\$0.17
Wood Chip Mulch 3" Deep	1	SF	\$0.66
Drip Irrigation for Planting Beds	1	SF	\$0.89
Total Cost for Irrigated Plant Beds	1	SF	\$1.99

Non-Irrigated Beds (Non-Living Landscape)			
Item	Quantity	Unit	Unit Cost
Soil Preparation	1	SF	\$0.27
Weed Barrier	1	SF	\$0.17
Wood Chip Mulch 3" Deep	1	SF	\$0.66
Total Cost for Non-Irrigated Beds	1	SF	\$1.10

Trees (One per 300 Square Feet) of Required Landscape Area				
Item	Quantity	Unit	Unit Cost	Divide by 300 for Cost Per SF
2-1/2" Caliper Deciduous Tree or 6' Height Evergreen Tree	1	EA	\$225.00	\$0.75 per SF
Delivery (average load 3.5 trees)	1	EA	\$20.00	\$0.07 per SF
Planting (per Colorado Tree Farm Nursery)	1	EA	\$85.00	\$0.28 per SF
Total Cost for Trees	1	EA	\$330.00	\$1.10 per SF

Shrubs (One per 50 Square Feet) of Required Landscape Area				
Item	Quantity	Unit	Unit Cost	Divide by 50 for Cost Per SF
5 Gallon Deciduous or Evergreen Shrub Including Planting	1	EA	\$40.00	\$0.80 per SF
Total Cost for Shrubs	1	EA	\$40.00	\$0.80 per SF

Composite Costs Based on 300 Square Feet of Required 70% Living Landscape and 30% Non-Living Landscape				
Item	Quantity	Unit	Unit Cost	Total Cost Per 300 SF of Item
Irrigated Turf (Living Landscape) ¹	210	SF	\$1.64	\$334.40
Non-Irrigated Beds (Non-Living Landscape)	90	SF	\$1.10	\$99.00
2-1/2" Caliper Deciduous Tree or 6' Height Evergreen Tree	1	EA	\$330.00	\$330.00
5 Gallon Deciduous or Evergreen Shrub Including Planting	6	EA	\$40.00	\$240.00
Total for 300 SF of Required Landscape Area (RLA)	N/A	N/A	N/A	\$1,003.40
Total Fee-in-Lieu Amount per Square Foot (Divide by 300) = \$3.34 Per SF				

¹ Living landscape figure for irrigated turf (\$1.64/SF) is less costly than figure for irrigated planting beds (\$1.99/SF).

The current landscape fee-in-lieu amount of \$1.50 per square foot of Required Landscape Area shortfall has been in place since 2004. The current \$1.50/SF figure is more equivalent to the current cost of providing non-living landscape, in a non-irrigated bed, without any trees or shrubs. The \$1.50/SF figure is too low to cover the actual cost of providing the landscape improvements associated with a given Required Landscape Area.

Staff recommends that the landscape fee-in-lieu amount be raised from \$1.50/SF to at least \$3.35/SF to reflect the actual costs of the Required Landscape Area shortfall. Furthermore, staff requests a recommendation from the Planning and Zoning Commission to City Council, supporting the increase in the landscape fee-in-lieu amount.

BY AUTHORITY

ORDINANCE NO. _____
 SERIES OF 2011

COUNCIL BILL NO. 19
 INTRODUCED BY COUNCIL
 MEMBER OLSON

AN ORDINANCE MODIFYING TITLES 2, 5 AND 16, OF THE ENGLEWOOD MUNICIPAL CODE 2000 PERTAINING TO MEDICAL MARIJUANA.

WHEREAS, the City Council of the City of Englewood amended Title 5, by the addition of a new Chapter 22 pertaining to Licensing of Medical Marijuana Primary Care-Givers with the passage of Ordinance No. 41, Series 2009; and

WHEREAS, Council Bill No. 53, pertaining to amending Title 16, Chapters 5 and 11 of the Englewood Municipal Code, which pertains to the Unified Development Code and Medical Marijuana Primary Care-Giver use without violating the Colorado State Constitution or federal statutes, was read and passed on first reading in December, 2009; and

WHEREAS, the Englewood City Council established a Temporary Suspension or Moratorium on the establishment of new Medical Marijuana Dispensing and growing uses for a six month period by the passage of Ordinance No. 34, 2009; and

WHEREAS, the Englewood City Council extended the suspension or moratorium on the establishment of new Medical Marijuana Dispensing and Growing uses for a period of four months by the passage of Ordinance No. 5, 2010; and

WHEREAS, the Englewood City Council extended the existing temporary suspension or moratorium on the establishment of new Medical Marijuana Dispensing and Growing uses for a period of six months with the passage of Ordinance No. 14, 2010; and

WHEREAS, the Colorado State Legislature passed state legislation pertaining to Medical Marijuana by passage of House Bill 10-1284 [signed by Governor on June 7, 2010]; and

WHEREAS, this Ordinance does not regulate medical marijuana patients or primary medical marijuana care-givers;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ENGLEWOOD, COLORADO, AS FOLLOWS:

Section 1. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 16, Chapter 5, Section 1(C), entitled "*Table of Allowed Uses*", of the Englewood Municipal Code 2000, to read as follows:

16-5-1: Table of Allowed Uses.

C. Table of Allowed Uses.

[EDITOR'S NOTE: The recommended changes are only effective in the Commercial portion of the table. The **Residential Uses** and **Public/Institutional Uses** portions of Table 16-5-1.1 Table of Allowed Uses contain no changes and are therefore not included here]

TABLE 16-5-1.1: TABLE OF ALLOWED USES																		
P = PERMITTED USE C = CONDITIONAL USE A = ACCESSORY USE T= TEMPORARY USE L= LIMITED USE C-A = ACCESSORY USE APPROVED CONDITIONALLY L-A = ACCESSORY USE APPROVED WITH LIMITED USE PROCEDURE																		
Use Category	Use Type	Residential						Non-Residential						Additional Regulations				
		R 1 A	R 1 B	R 1 C	R 2 A	R 2 B	M U R 3 A	M U R 3 B	M U R 3 C	M U R 3 D	M 1	M 2	M U B 1		M U B 2	T S A	I 1	I 2
COMMERCIAL USES																		
Adult Use	All types as defined in Chapter 16-11																	16-5-2.C.1
Agricultural Use	Greenhouse/nursery, raising of plants, flowers, or nursery stock																	16-5-2.C.2
Animal Sales and Service	Animal shelter																P	P
	Kennel/day care													L			P	P
	Pet store (live animal sale)											P	P	P	P	P	P	P

TABLE 16-5-1.1: TABLE OF ALLOWED USES
P = PERMITTED USE C = CONDITIONAL USE A = ACCESSORY USE T= TEMPORARY USE L= LIMITED USE
C-A = ACCESSORY USE APPROVED CONDITIONALLY L-A = ACCESSORY USE APPROVED WITH LIMITED USE PROCEDURE

Use Category	Use Type	Residential							Non-Residential						Additional Regulations				
		R 1 A	R 1 B	R 1 C	R 2 A	R 2 B	M U R 3 A	M U R 3 B	M 1	M 2	M U B 1	M U B 2	T S A	I 1		I 2			
Assembly	Small animal veterinary hospital or clinic																		
	Assembly hall or auditorium, hall rental for meetings or social occasions									L	P	P	C	P			P		
Dependent Care	Membership organization (excluding adult use)																		
	Dependent care center (less than 24-hour care, any age)	C	C	C	C	C	P	P	P	P	P	P	C	P					16-5-2.C.7

TABLE 16-5-1.1: TABLE OF ALLOWED USES
P = PERMITTED USE C = CONDITIONAL USE A = ACCESSORY USE T= TEMPORARY USE L= LIMITED USE
C-A = ACCESSORY USE APPROVED CONDITIONALLY L-A = ACCESSORY USE APPROVED WITH LIMITED USE PROCEDURE

Use Category	Use Type	Residential							Non-Residential					Additional Regulations		
		R 1 A	R 1 B	R 1 C	R 2 A	R 2 B	M U R 3 A	M U R 3 B	M 1	M 2	M 2 --- M O 2	M U B 1	M U B 2		T S A	I 1
Service (Sales)	Art gallery															
	Auction house															
	Buy-back shop, second hand, thrift, consignment															
	Convenience store															
	Grocery/specialty food store															
	Internet sales location															
	Liquor store															
	Pawnbroker															

16-5-2.C.10

Section 2. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 16, Chapter 5, Section 2(C), by the addition of a new subsection 13 “Medical Marijuana” of the Englewood Municipal Code 2000 to read as follows:

16-5-2. Use Specific Standards.

C. Commercial Uses

13. – Medical Marijuana.

- a. All Medical Marijuana Uses shall comply with State regulations and City of Englewood Licensing requirements.
- b. Facilities in MU-B-1, MU-B-2, and M-2 zone districts: Cultivation and Infused Product Manufacturing uses are allowed only as accessory uses to a principal Medical Marijuana Center provided the square footage of the total operation does not exceed five thousand (5,000) square feet.
- c. Medical Marijuana Optional Premises Cultivation Operations shall not exceed five thousand (5,000) square feet.

Section 3. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 16, Chapter 11, Section 2(B) - “*Definition of Words, Terms, and Phrases*” of the Englewood Municipal Code 2000 by inserting in alphabetical order; in order to match/align with the Colorado state legislation the following definitions:

Medical Marijuana: all parts of the plant (genus) cannabis used in the treatment of debilitating medical conditions as defined in the Colorado Constitution Article XVIII, Section 14.

Medical Marijuana Center: means a person licensed pursuant to Article 43.3-104 of Title 12 C.R.S. to operate a business as described in Article 43.3 of Title 12 C.R.S. that sells Medical Marijuana to registered patients or primary Care-Givers as defined in Section 14 of Article XVIII of the State Constitution, but is not a primary Care-Giver.

Medical Marijuana-Infused Products Manufacturer: means a person licensed pursuant to Article 43.3 of title 12 C.R.S. to operate a business as described in Article 43.3 of Title 12 C.R.S.

Medical Marijuana Optional Premises Cultivation Operation: means a person licensed pursuant to Article 43.3 of Title 12 C.R.S. to operate a business as described in Article 43.3 of Title 12 C.R.S.

Section 4. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 16, Chapter 5, Section 4(C), by the addition of three new Subsections (11), (12), and (13) to the Englewood Municipal Code 2000 to read as follows:

16-5-4: - Accessory Uses.

C. Accessory Uses Permitted. Table 16-5-1.1 includes accessory uses and shows in which zoning district a specific accessory use is permitted. If an accessory use is not listed in Table 16-5-1.1, but satisfies all the general standards set forth in subsection 16-5-4(B) EMC, the City Manager or designee may allow its establishment according to the procedures and criteria in Section 16-5-1(B) EMC, "Unlisted Uses." In addition, all unlisted accessory uses shall be subject to compliance with the general, dimensional, and operational standards set forth in this Section 16-5-4 EMC.

1. Home Occupation. Occupations customarily incidental to the principal use as a residence may be allowed when conducted in the same dwelling, provided the following standards are met:
 - a. Districts Allowed. Home occupations are allowed in the following districts: R-1-B, R-1-C, R-2-A, R-2-B, MU-R-3-A, and MU-R-3-B. Only one (1) home occupation shall be permitted per dwelling unit. Home occupations may be permitted accessory to principal residential uses located in nonresidential districts (e.g., in a manufactured home park located in an industrial district) provided the home occupation complies with all requirements of residential district home occupations herein.
 - b. Where Allowed on Site. The home occupation shall be operated entirely within the dwelling unit and only by the person or persons maintaining a dwelling unit therein. The home occupation shall not have a separate outside entrance. The home occupation shall not be conducted in a detached accessory structure.
 - c. Registration. All home occupations shall register with the City.
 - d. Sales.
 - (1) On the Premises. The sale on the premises of items that have been made, grown, or prepared on the premises shall be permitted. The sale on the premises of any item that has not been made, grown, or prepared on the premises shall be prohibited.
 - (2) Off the Premises. Sales off the premises of such items as personal or household goods such as those products offered by Avon, Amway, Fuller Brush, Watkins, etc., shall be permitted.
 - e. Operational Requirements.
 - (1) No assistants or employees that are not residents of the principal dwelling unit shall be employed in the home occupation.
 - (2) The hours and manner of such uses and the noise created thereby shall not interfere with the peace, quiet, or dignity of the neighborhood and adjoining properties.

- (3) Incidental storage shall be allowed for items made on the premises and/or sold off the premises consistent with this Section.
 - (4) The home occupation, including storage of materials, equipment, inventory, and/or supplies, shall not utilize more than three hundred (300) square feet; provided, however, that this does not apply to permitted home care accessory uses.
 - (5) The use of electric motors shall be limited in power, with a total limitation of one and one-half (1½) horsepower, and no single unit over three-fourths (¾) horsepower.
- f. Prohibited Uses. In no event shall any home occupation include the following business or commercial activities:
- (1) Animal hospital or kennel, animal daycare, breeders, except licensed canine and feline breeders.
 - (2) Asphalt paving business.
 - (3) Barbers, hairdressers, cosmetologists, beauticians or any activity involving the skin, hair or nails.
 - (4) Body, mechanical repair, or modification of motor vehicles.
 - (5) The sale, storage, manufacture, or assembly of guns, knives or other weapons or ammunition.
 - (6) Dump trucks.
 - (7) Restaurants.
 - (8) Towing business.
 - (9) Processes involving the dispensing, use, or recycling of hazardous or flammable substances and materials.
 - (10) Automotive vehicles sales requiring a state dealer's license.
 - (11) Medical Marijuana Centers.
 - (12) Medical Marijuana-Infused Products manufacturers.
 - (13) Optional Premises Cultivation Operation.

Section 5. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 2, Chapter 6, Section 1 “Licensing Authority Established” of the Englewood Municipal Code 2000 to read as follows:

Chapter 6

LOCAL LIQUOR AND MEDICAL MARIJUANA LICENSING AUTHORITY.

2-6-1: Licensing Authority Established.

A. There is hereby established a Local Licensing Authority, which shall have and is vested with the authority to grant or refuse licenses for the sale at retail of malt, vinous or spirituous liquors and fermented malt beverages, as provided by law, to suspend or revoke such licenses for cause in the manner provided by law. Such authority shall have all the powers of the Local Licensing Authority as set forth in Articles 46, 47 and 48 of Title 12, C.R.S. 1973.

See Title 5, Chapter 3, Article A of this Municipal Code for the organization, powers, functions and duties of the Local Licensing Authority.

B. There is hereby established a Local Licensing Authority to issue only the following Medical Marijuana Licenses upon payment of a fee and compliance with all Local Licensing requirements to be determined by the Local Licensing Authority as set forth in Article 43.3 of Title 12 C.R.S.:

1. A Medical Marijuana Center License;
2. A Medical Marijuana Optional Premises Cultivation Operation License;
3. A Medical Marijuana-Infused Products Manufacturer License.

Section 6. The City Council of the City of Englewood, Colorado hereby authorizes repealing Title 5, Section 22, of the Englewood Municipal Code 2000 in its entirety.

5-22-1: DEFINITIONS:

As used in this Section, the following terms shall have the meanings indicated:

~~*Medical Marijuana:* All parts of the plant (genus) cannabis used in the treatment of debilitating medical conditions as defined in the Colorado Constitution Article XVIII, Section 14.~~

~~*Medical Marijuana Patient:* A Patient as defined in the Colorado Constitution Article XVIII, Section 14, who is registered as a Medical Marijuana Patient with the State of Colorado.~~

~~*Medical Marijuana Primary Care Giver:* A person, as defined in the Colorado Constitution Article XVIII, Section 14, who is listed by a Medical Marijuana Patient as a Primary Care Giver on the State Medical Marijuana registry.~~

~~*Medical Marijuana Registry Card:* A registration card issued to a Patient, as defined in the Colorado Constitution Article XVIII, Section 14; by the Colorado Department of Public Health and Environment which also identifies the Patient and the Patient's Primary Care Giver.~~

~~*Medical Marijuana Use:* The acquisition, possession, production, use or transportation of marijuana or paraphernalia related to the administration of such medical marijuana to address a Patient's debilitating medical condition as defined in the Colorado Constitution Article XVIII, Section 14.~~

~~*Usable Form of Marijuana:* The seeds, leaves, buds, and flowers of the plant (genus) cannabis, and any mixture or preparation thereof, which are appropriate for medical use as defined in the Colorado Constitution Article XVIII, Section 14.~~

~~**5-22-2: LICENSE REQUIRED:** It shall be unlawful for any Medical Marijuana Primary Care Giver, as defined, to acquire, possess, produce, use, transport, offer, dispense, or grow Medical Marijuana or marijuana paraphernalia or to sell the above without first obtaining a license from the City of Englewood.~~

~~**5-22-3: APPLICATION FOR LICENSE:** A Medical Marijuana license shall be issued in accordance with Chapter 1 of this Title to a State of Colorado registered Primary Care Giver.~~

~~**5-22-4: SPECIAL LICENSE REQUIREMENTS:** In addition to all other provisions of this Title, the following special requirements apply to this license:~~

- ~~A. Only a person authorized by the Colorado Constitution Article XVIII, Section 14 or by Rules of the Colorado Department of Public Health and Environment may be licensed.~~
- ~~B. LICENSE NOT TRANSFERABLE: A License issued pursuant to this Chapter shall not be transferred to another person.~~
- ~~C. BACKGROUND INVESTIGATION: Applicants will be subject to a criminal background investigation as part of the application process. The application will be rejected if the criminal background check discloses any felony convictions.~~
- ~~D. A licensed Medical Marijuana Primary Care Giver shall have copies of all required State of Colorado registrations available.~~
- ~~E. Failure of an applicant to meet the prescribed standards and qualifications of this Chapter shall constitute grounds for revocation, suspension, or non-renewal of the license.~~

~~**5-22-5: REQUIRED ACTS:**~~

- ~~A. Medical Marijuana Primary Care Givers shall comply with all applicable State laws and regulations relating to the use, sale or possession of Medical Marijuana or marijuana paraphernalia.~~
- ~~B. Medical Marijuana Primary Care Givers shall keep accurate records of their inventory, sales, and other records as required by the Licensing Officer.~~
- ~~C. Medical Marijuana Primary Care Givers shall keep records of all transactions for at least three (3) years.~~

- D. ~~Licensed Medical Marijuana Primary Care Givers shall only make sales to persons with a valid Medical Marijuana Patient Registry Card issued by the Colorado Department of Public Health and Environment.~~
- E. ~~Licensed Medical Marijuana Primary Care Givers shall possess a copy of a valid Medical Marijuana Patient Registry Card issued by the Colorado Department of Public Health and Environment for all sales.~~

~~5-22-6: PROHIBITED ACTS:~~

- A. ~~No Medical Marijuana Primary Care Giver shall sell or otherwise provide marijuana to anyone other than persons with a valid Medical Marijuana Registry Card issued by the Colorado Department of Health and Environment to registered Patients.~~

Section 7. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 5, Chapter 3, of the Englewood Municipal Code 2000 creating a new Chapter 3D to read as follows:

5-3D-1: Purpose.

- A. The Englewood City Council hereby declares that this Chapter shall be deemed an exercise of the police powers of the City for the protection of the economic and social welfare and the health, peace, and morals of the people of the City.
- B. The City further declares that it is unlawful to cultivate, manufacture, distribute, or sell medical marijuana, except in compliance with the terms, conditions, limitations, and restrictions in Section 14 of Article XVIII of the State Constitution and/or when acting as a primary care-giver in compliance with the terms, conditions, limitations, and restrictions of Section 25-1.5-106 C.R.S.

5-3D-2: Powers and Duties of the Local Licensing Authority.

- A. The Local Licensing Authority shall grant or refuse local licenses for the cultivation, manufacture, distribution, and sale of Medical Marijuana as provided by law; suspend, fine, restrict, or revoke such licenses upon a violation of this Title, or a rule promulgated pursuant to this Title; and may impose any penalty authorized by this Title or any rule promulgated pursuant to this Title. The Local Licensing Authority may take action with respect to a registration or a license pursuant to this Title, and in accordance with the procedures established pursuant to this Title.
- B. The Local Licensing Authority shall promulgate such rules and make such special rulings and findings as necessary for the proper regulation and control of the cultivation, manufacture, distribution, and sale of Medical Marijuana and for the enforcement of this Chapter.
- C. The Local Licensing Authority hereby adopts the minimum licensing requirements of Article 43.3 of Title 12 C.R.S. when issuing a License.

D. In addition to all other standards applicable to the issuance of licenses under this Code, the Local Licensing Authority hereby adopts additional standards for the issuance of Medical Marijuana Center, Medical Marijuana Optional Premises Cultivation Operation, or Medical Marijuana- Infused Products Manufacturer Licenses consistent with the intent of Article 43.3 of Title 12 C.R.S. and this Code as follows:

1. Distance restrictions between premises in or out of City limits for which Local Licenses are issued;
 - (a) If the building in which Medical Marijuana is to be cultivated, manufactured or sold is located within two thousand feet (2,000') of a school, an alcohol or drug treatment facility, or the principal campus of a college, university, seminary, or a residential child care facility or within two thousand five hundred feet (2,500') of an existing licensed Medical Marijuana Center, Medical Marijuana-Infused Products Manufacturer or Medical Marijuana Optional Premises Cultivation Operation. The provisions of this Section shall not affect the renewal or re-issuance of a license once granted or apply to licensed premises located or to be located on land owned by a municipality; nor shall the provisions of the Section apply to existing licensed premises on land owned by the State, or apply to a license in effect and actively doing business before said principal campus was constructed.
 - (b) The distances referred to in this Title are to be computed by direct measurement from the nearest property line of the land used for a school or campus to the nearest portion of the building in which Medical Marijuana is to be sold, cultivated or infused, using a route of direct pedestrian access.
2. Reasonable restrictions on the size of an applicant's Licensed Premises.
 - (a) All Medical Marijuana Optional Premises Cultivation Operations shall not exceed five thousand (5,000) square feet.
3. Any other requirements necessary to ensure the control of the premises and the ease of enforcement of the terms and conditions of the License.
 - (a) Any cultivation or manufacture of Medical Marijuana within a Multi-Tenant building shall have a heating, ventilation and air conditioning system separate from the rest of the building.

5-3D-3: Definitions.

Good Cause: for purposes of refusing or denying a license renewal, reinstatement, or initial license issuance means:

1. The licensee or applicant has violated, does not meet, or has failed to comply with any of the terms, conditions, or provisions of Article 43.3 of Title 12 C.R.S., and rules promulgated pursuant to this Title, or any supplemental local law, rules, or regulations;
2. The licensee or applicant has failed to comply with any special terms or conditions that were placed on its license pursuant to an order of the State or Local Licensing Authority;

3. The licensed premises have been operated in a manner that adversely affects the public health, welfare or the safety of the immediate neighborhood in which the establishment is located.

License: means to grant a license or registration pursuant to this Title.

Licensed Premises: means the premises specified in an application for a license under this Title, which are owned or in possession of the licensee and within which the licensee is authorized to cultivate, manufacture, distribute, or sell Medical Marijuana in accordance with the provisions of Article 43.3 of Title 12 C.R.S.

Licensee: means a person licensed or registered pursuant to Article 43.3 of Title 12 C.R.S. and this Title.

Local Licensing Authority: means the Englewood Local Liquor and Medical Marijuana Licensing Authority.

Local Licensing Official: means the Director of Finance and Administrative Services or designee.

Location: means a particular parcel of land that may be identified by an address or other descriptive means.

Medical Marijuana: means Marijuana that is grown and sold pursuant to the provisions of Article 43.3 of Title 12 C.R.S. and for a purpose authorized by Section 14 of Article XVIII of the State Constitution.

Medical Marijuana Center: means a person licensed pursuant to Article 43.3 of Title 12 C.R.S. to operate a business as described in Article 43.3 of Title 12 C.R.S. that sells medical marijuana to registered patients or primary caregivers as defined in Section 14 of Article XVIII of the State Constitution, but is not a primary caregiver.

Medical Marijuana-Infused Product: means a product infused with Medical Marijuana that is intended for use or consumption other than by smoking, including but not limited to edible products, ointments, and tinctures. These products, when manufactured or sold by a licensed Medical Marijuana Center or a Medical Marijuana-Infused Product Manufacturer, shall not be considered a food or drug for the purposes of the "Colorado Food and Drug Act", Part 4 of Article 5 of Title 25, C.R.S.

Medical Marijuana-Infused Product Manufacturer: A person licensed pursuant to Article 43.3 of Title 12 C.R.S. to operate a business as described in Article 43.3 of Title 12 C.R.S.

Medical Marijuana Optional Premises Cultivation Operation: means the premises specified in an application for a Medical Marijuana Center License with related growing facilities in Colorado for which the Licensee is authorized to grow and cultivate Marijuana for a purpose authorized by Section 14 of Article XVIII of the State Constitution.

Multi-Tenant Building: A building that is or can be occupied by more than one tenant.

Person: means a natural person, partnership, association, company, corporation, limited liability company, or organization, or a manager, agent, owner, director, servant, officer, or employee thereof.

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

School: means a public or private preschool or a public or private elementary, middle, junior high, or high school, college or campus of a college.

Smoking: means the burning of a lighted cigarette, cigar, pipe, or any other matter or substance that contains tobacco or Medical Marijuana as defined by Article 43.3 of Title 12 C.R.S.

State Licensing Authority: means the Authority created for the purpose of regulating and controlling the Licensing of the cultivation, manufacture, distribution, and sale of Medical Marijuana in this State, pursuant to Article 43.3 of Title 12 C.R.S.

In addition to the definitions set forth in Section 14(1) of Article XVIII of the State Constitution, as used in Article 43.3 of Title 12 C.R.S., unless the context otherwise requires, "Primary Care-Giver" means a natural person, other than the patient or the patient's physician, who is eighteen years of age or older and has significant responsibility for managing the well-being of the patient who has a debilitating medical condition.

5-3D-4: Applications – Licenses.

- A. An application for a License shall be filed with the Local Licensing Authority on forms provided by the State and Local Licensing Authority. The application shall contain such information as the State and Local Licensing Authority may require. Each application shall be verified by the oath or affirmation of the persons prescribed by the State and Local Licensing Authority.
- B. An applicant shall file at the time of application for a Local License plans and specifications for the interior of the building if the building to be occupied is in existence at the time. If the building is not in existence, the applicant shall file a plot plan and a detailed sketch for the interior and submit an architect's drawing of the building to be constructed. In its discretion, the Local or State Licensing Authority may impose additional requirements necessary for the approval of the application.

5-3D-5: Public Hearing Notice – Posting and Publication.

- A. Upon receipt of an application for a Local License, except an application for renewal or for transfer of ownership, a Local Licensing Authority may schedule a public hearing upon the application, to be held not less than thirty (30) days after the date of the application. If the Local Licensing Authority schedules a hearing for a Medical Marijuana Center Application, it shall post and publish public notice thereof not less than ten (10) days prior to the hearing. The Local Licensing Authority shall give public notice by the posting by applicant of a sign in a conspicuous place on the Medical Marijuana Center premises for which application has been made and by publication in a newspaper of general circulation or the City's official website in the City in which the Medical Marijuana Center Premises are located.

- B. Public notice given by posting shall include a sign of suitable material, not less than twenty-two inches (22”) wide and twenty-six inches (26”) high, composed of letters not less than one inch in height and stating the type of License applied for, the date of the application, the date of the hearing, the name and address of the applicant, and such other information as may be required to fully apprise the public of the nature of the application. The sign shall contain the names and addresses of the officers, directors, or manager of the facility to be licensed.
- C. Public notice given by publication shall contain the same information as that required for signs.
- D. If the building in which Medical Marijuana is to be sold is in existence at the time of the application, a sign posted as required in this Section shall be placed so as to be conspicuous and plainly visible to the general public. If the building is not constructed at the time of the application, the applicant shall post a sign at the premises upon which the building is to be constructed in such a manner that the notice shall be conspicuous and plainly visible to the general public.
- E. 1. A Local Licensing Authority, the Local Licensing Official, or a License Applicant with Local Licensing Authority approval, may request that the State Licensing Authority conduct a concurrent review of a new License Application prior to the Local Licensing Authority’s final approval of the License Application. Local Licensing Authorities who permit a concurrent review will continue to independently review the Applicant’s License Application.
2. When conducting a concurrent application review, the State Licensing Authority may advise the Local Licensing Official and the Local Licensing Authority of any items that it finds that could result in the denial of the License Application. Upon correction of the noted discrepancies, if the correction is permitted by the State Licensing Authority, the State Licensing Authority shall notify the Local Licensing Authority of its conditional approval of the License Application subject to the final approval by the Local Licensing Authority. The State Licensing Authority shall then issue the Applicant’s State License upon receiving evidence of final approval by the Local Licensing Authority.
3. All applications submitted for concurrent review shall be accompanied by all applicable State and Local License and Application Fees. Any applications that are later denied or withdrawn may allow for a refund of License Fees only. All Application Fees provided by an applicant shall be retained by the respective Licensing Authority.

5-3D-6: Results of Investigation – Decision of Authorities.

- A. Not less than five (5) days prior to the date of the public hearing authorized in Section 5-3D-5 EMC, the Local Licensing Official shall make known the findings, based on its investigation, in writing to the applicant and other parties of interest. The Local Licensing Authority has authority to refuse to issue a License provided for in this Section for good cause, subject to judicial review.

- B. Before entering a decision approving or denying the application for a Local License, the Local Licensing Authority may consider, except where this Code specifically provides otherwise, the facts and evidence adduced as a result of its investigation, as well as any other facts pertinent to the type of license for which application has been made, including the number, type, and availability of Medical Marijuana outlets located in or near the premises under consideration, and any other pertinent matters affecting the qualifications of the applicant for the conduct of the type of business proposed.
- C. Within thirty (30) days after the public hearing or completion of the application investigation, the Local Licensing Authority shall issue its decision approving or denying an application for local licensure. The decision shall be in writing and shall state the reasons for the decision. The Local Licensing Authority shall send a copy of the decision by certified mail to the applicant at the address shown in the application.
- D. After approval of an application, the Local Licensing Official shall not issue a local license until the building in which the business to be conducted is ready for occupancy with such furniture, fixtures, and equipment in place as are necessary to comply with the applicable provisions of this Title and State Statute, and then only after the Local Licensing Official has inspected the premises to determine that the applicant has complied with the Architect's Drawing and the Plot Plan and detailed sketch for the interior of the building submitted with the application.
- E. After approval of an application for Local Licensure, the Local Licensing Official shall notify the State Licensing Authority of such approval, who shall investigate and either approve or disapprove the application for State Licensure.

5-3D-7: Medical Marijuana License Bond.

- A. Before the Local Licensing Official issues a Local License to an applicant, the applicant shall procure and file with the City Licensing Authority evidence of a good and sufficient bond in the amount of five thousand dollars (\$5,000.00) with corporate surety thereon duly licensed to do business with the City, and conditioned that the applicant shall report and pay all sales and use taxes due to the City, or for which the State is the collector or collecting agent, in a timely manner, as provided by law.
- B. A corporate surety shall not be required to make payments to the City claiming under such bond until a final determination of failure to pay taxes due to the City has been made by the City Licensing Authority or a Court of competent jurisdiction.
- C. All bonds required pursuant to this Section shall be renewed at such time as the Bondholder's License is renewed. The renewal may be accomplished through a continuation certificate issued by the surety.

5-3D-8: Denial of Application.

- A. The Local Licensing Authority shall deny a Local License if the premises on which the applicant proposes to conduct its business do not meet the requirements of this Title or for reasons set forth in this Chapter.

- B. If the Local Licensing Authority denies a Local License, the Applicant shall be entitled to a hearing pursuant to this Title. The Local Licensing Authority shall provide written notice of the grounds for denial of the Local License of the applicant.

5-3D-9: Persons Prohibited as Licensees.

The Local Licensing Authority hereby adopts the provisions and restrictions set forth in 12-43.4-307 C.R.S.

5-3D-10: Restrictions for Applications for New Licenses.

- A. The Local Licensing Authority shall not receive or act upon an application for the issuance of a State or Local License pursuant to this Title.

1. If the application for a State or Local License concerns a particular location that is the same as or within one thousand feet (1,000') of a location for which, within the two (2) years immediately preceding the date of the application, the State or a Local Licensing Authority denied an application for the same class of license due to the nature of the use or other concern related to the location;
2. Until it is established that the applicant is, or will be, entitled to possession of the premises for which application is made under a lease, rental agreement, or other arrangement for possession of the premises or by virtue of ownership of the premises;
3. For a location in an area where the cultivation, manufacture, and sale of Medical Marijuana as contemplated is not permitted under the applicable zoning laws.
4. a. If the building in which Medical Marijuana is to be cultivated, manufactured or sold, is located within two thousand feet (2,000') of a school, an alcohol or drug treatment facility, or the campus of a college, university, seminary, or a residential child care facility or within two thousand five hundred feet (2,500') of an existing licensed Medical Marijuana Center, Medical Marijuana-Infused Products Manufacturer or Medical Marijuana Optional Premises Cultivation Operation. The provisions of this Section shall not affect the renewal or re-issuance of a license once granted or apply to licensed premises located or to be located on land owned by a municipality; nor shall the provisions of the Section apply to existing licensed premises on land owned by the State, or apply to a license in effect and actively doing business before said principal campus was constructed.
 - b. In addition to the requirements of Section 12-43.3-303 (2) C.R.S., the Local Licensing Authority shall consider the evidence and make a specific finding of fact as to whether the building in which the Medical Marijuana is to be sold is located within any distance restrictions established by or pursuant to this Paragraph 4.
 - c. The distances referred to in this Title are to be computed by direct measurement from the nearest property line of the land used for a school or campus to the nearest portion of the building in which Medical Marijuana is to be sold, using a route of direct pedestrian access.

5-3D-11. Transfer of Ownership.

- A.** A State or Local License granted under the provisions of this Title shall not be transferable except as provided in this Section, but this Section shall not prevent a change of location as provided in Section 12-43.3-310(13) C.R.S.
- B.** For a transfer of ownership, a License Holder shall apply to the State and Local Licensing Authorities on forms prepared and furnished by the State Licensing Authority. In determining whether to permit a Transfer of Ownership, the Local Licensing Authority shall consider only the requirements of this Title, any rules promulgated by the State or Local Licensing Authority, and any other local restrictions. The Local Licensing Authority may hold a hearing on the Application for the Transfer of Ownership. The Local Licensing Authority shall not hold a hearing until the Local Licensing Authority has posted a notice of hearing in the manner described in Section 12-43.3-302(2) C.R.S. on the Licensed Medical Marijuana Center premises for a period of ten (10) days and has provided notice of the hearing to the applicant at least ten (10) days prior to the hearing. Any transfer of ownership hearing by the Local Licensing Authority shall be held in compliance with the requirements specified in Section 12-43.3-302 C.R.S.

5-3D-12: Licensing in General.

The Local Licensing Authority adopts the provisions and restrictions set forth in 12-43.3-310 C.R.S. and Title 5 Chapter 1 EMC.

5-3D-13: Licensing Renewal.

- A.** Ninety (90) days prior to the expiration date of an existing License, the State Licensing Authority shall notify the Licensee of the expiration date by First Class Mail at the Licensee's address of record with the State Licensing Authority. A Licensee shall apply for the renewal of an existing License to the Local Licensing Authority not less than forty-five (45) days and to the State Licensing Authority not less than thirty (30) days prior to the date of expiration. A Local Licensing Authority shall not accept an application for renewal of a License after the date of expiration, except as provided in Subsection B. of this Section. The State Licensing Authority may extend the expiration date of the License and accept a Late Application for Renewal of a License provided that the applicant has filed a timely renewal application with the Local Licensing Authority. All renewals filed with the Local Licensing Authority and subsequently approved by the Local Licensing Authority shall next be processed by the State Licensing Authority. The State or the Local Licensing Authority, in its discretion, subject to the requirements of this Title and based upon reasonable grounds, may waive the forty-five (45) day or thirty (30) day time requirement set forth in this Title. The Local Licensing Authority may hold a hearing on the application for renewal only if the Licensee has had complaints filed against it; and has a history of violations; or there are allegations against the Licensee that would constitute good cause. The Local Licensing Authority shall not hold a renewal hearing provided for by this Title for a Medical Marijuana Center until it has posted a notice on the Licensed Medical Marijuana Center premises in the manner described in Section 12-43.3-302(2) C.R.S. for a period of ten (10) days and provided notice to the Applicant at least ten (10) days prior to the hearing. The Local Licensing Authority may refuse to renew any License for good cause, subject to Judicial Review.

- B. 1. Notwithstanding the provisions of Subsection A of this Section, a Licensee whose License had been expired for not more than ninety (90) days may file a Late Renewal Application upon the payment of A Nonrefundable Late Application Fee of Five Hundred Dollars (\$500.00) to the Local Licensing Authority. A Licensee who files a Late Renewal Application and pays the requisite fees may continue to operate until both the State and Local Licensing Authorities have taken final action to approve or deny the Licensee's Late Renewal Application unless the State or Local License Authority summarily suspends the License pursuant to Article 4 of Title 24, C.R.S., this Title, and rules promulgated pursuant to this Title.
2. The State and Local Licensing Authorities may not accept a Late Renewal Application more than ninety (90) days after the expiration of a Licensee's Permanent Annual License. A Licensee whose Permanent Annual License has been expired for more than ninety (90) days shall not cultivate, manufacture, distribute, or sell any Medical Marijuana until all required Licenses have been obtained.
3. Notwithstanding the amount specified for the Late Application Fee, the State and Local Licensing Authority by rule or as otherwise provided by law may, in its discretion, reduce the amount of the fee.

5-3D-14: Inactive Licenses.

The State or Local Licensing Authority, in its discretion, may revoke or elect not to renew any License if it determines that the Licensed Premises have been inactive, without good cause, for at least one (1) year.

5-3D-15: Unlawful Financial Assistance.

- A. The State and Local Licensing Authority, by rule and regulation, shall require a complete disclosure of all persons having a direct or indirect financial interest, and the extent of such interest, in each License issued under this Article.
- B. A person shall not have an unreported financial interest in a License pursuant to this Title unless that person has undergone a fingerprint-based criminal history record check as provided for by the State and Local Licensing Authority in its rules; except that this Subsection B shall not apply to banks, savings and loan associations, or industrial banks supervised and regulated by an agency of the State or Federal Government, or the FHA-approved mortgagees, or to stockholders, directors or officers thereof.
- C. This Section is intended to prohibit and prevent the control of the outlets for the sale of Medical Marijuana by a person or party other than the persons Licensed pursuant to the provisions of this Title.

5-3D-16: Fees

Every Medical Marijuana Center, Medical Marijuana-Infused Products Manufacturer, Medical Marijuana Optional Premises Cultivation Operation shall pay a fee. This fee is imposed to offset the cost of administering this License. This fee shall be determined by the City Council and set by Resolution.

5-3D-17: Disciplinary Actions: Suspension – Revocation – Fines.

- A. In addition to any other sanctions prescribed by, the State Licensing Authority or the Local Licensing Authority has the power, on its own motion or on complaint, after investigation and opportunity for a Public Hearing at which the Licensee shall be afforded an opportunity to be heard; to suspend or revoke a License issued by the respective authority for a violation by the Licensee or by any of the agents or employees of the Licensee of the provisions of this Title, or any other terms, conditions, or provisions of the License issued by the State or Local Licensing Authority. The State Licensing Authority or a Local Licensing Authority has 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 a Hearing.
- B. The State or Local Licensing Authority shall provide notice of suspension, revocation, fine, or other sanction, as well as the required Notice of the Hearing pursuant to this Title, by mailing the same in writing to the Licensee at the address contained in the License. Except in the case of a Summary Suspension, a suspension shall not be for a longer period than six (6) months. If a License is suspended or revoked, a part of the fees paid therefore shall not be returned to the Licensee. Any License or Permit may be summarily suspended by the issuing Licensing Authority without Notice pending any prosecution, investigation, or Public Hearing pursuant to the terms of Section 24-4-104(4), C.R.S. or this Title. Nothing in this Section shall prevent the Summary Suspension of a License pursuant to Section 24-4-104(4), C.R.S. Each patient registered with a Medical Marijuana Center that has had its License Summarily Suspended may immediately transfer his or her Primary Center to another Licensed Medical Marijuana Center.
- C. 1. Whenever a decision of the State Licensing Authority or the Local Licensing Authority suspending a License for fourteen (14) days or less becomes final, the Licensee may, before the operative date of the suspension, petition for permission to pay a fine in lieu of having the License suspended for all or part of the suspension period. Upon the receipt of the petition, the State or Local Licensing Authority may, in its sole discretion, stay the proposed suspension and cause any investigation to be made which it deems desirable and may, in its sole-discretion, grant the petition if the State or Local Licensing Authority is satisfied that:
- a. The public welfare and morals would not be impaired by permitting the Licensee to operate during the period set for suspension and that the payment of the fine will achieve the desired disciplinary purposes;
 - b. The books and records of the Licensee are kept in such a manner that the loss of sales that the Licensee would have suffered had the suspension gone into effect can be determined with reasonable accuracy; and
 - c. The Licensee has not had his or her License suspended or revoked, nor had any suspension stayed by payment of a fine, during the two (2) years immediately preceding the date of the Motion or Complaint that resulted in a final decision to suspend the License.

2. The fine accepted shall be not less than five hundred dollars (\$500.00) nor more than one hundred thousand dollars (\$100,000.00).
3. Payment of a fine shall be in the form of cash or in the form of a certified check or cashier's check made payable to the State or Local Licensing Authority, whichever is appropriate.

D Upon payment of the fine, the State or Local Licensing Authority shall enter its further order permanently staying the imposition of the suspension. If the fine is paid to a Local Licensing Authority, the governing body of the Authority shall cause the moneys to be paid into the General Fund of the Local Licensing Authority. Fines paid to the State Licensing Authority shall be transmitted to the State Treasurer who shall credit the same to the Medical Marijuana License Cash Fund created in Section 12-43.3-501 C.R.S.

E. In connection with a petition, the Authority of the State or Local Licensing Authority is limited to the granting of such stays as are necessary for the Authority to complete its investigation and make its findings and if the Authority makes such findings, to the granting of an Order permanently staying the imposition of the entire suspension or the portion of the suspension not otherwise conditionally stayed.

F. If the State or Local Licensing Authority does not make the findings required in this Section and does not order the suspension permanently stayed, the suspension shall go into effect on the operative date finally set by the State or Local Licensing Authority.

G. Each Local Licensing Authority shall report all actions taken to impose fines, suspensions, and revocations to the State Licensing Authority in a manner required by the State Licensing Authority. No later than January 15 of each year, the State Licensing Authority shall compile a report of the preceding year's actions in which fines, suspensions, or revocations were imposed by Local Licensing Authorities and by the State Licensing Authority. The State Licensing Authority shall file one copy of the report with the Chief Clerk of the House of Representatives, one copy with the Secretary of the Senate; and six copies in the Joint Legislative Library.

5-3D-18: Inspection of Books and Records – Inspection Procedures.

A. Each Licensee shall keep a complete set of all records necessary to show fully the business transactions of the Licensee, all of which shall be open at all times during business hours for the inspection and examination by the State or Local Licensing Authority or its duly authorized representatives. The State or Local Licensing Authority may require any Licensee to furnish such information as it considers necessary for the proper administration of this Title and may require an audit to be made of the books of account and records on such occasions as it may consider necessary by an auditor to be selected by the State or Local Licensing Authority who shall likewise have access to all books and records of the Licensee, and the expense thereof shall be paid by the Licensee.

- B. The Licensed Premises, including any places of storage where Medical Marijuana is grown, stored, cultivated, sold, infused or dispensed shall be subject to inspection by the State or Local Licensing Authorities and their investigators, during all business hours and other times of apparent activity, for the purpose of inspection or investigation. For examination of any inventory or books and records required to be kept by the Licensees, access shall be required during business hours. Where any part of the Licensed Premises consists of a locked area, upon demand to the Licensee, such area shall be made available for inspection without delay, and, upon request by authorized representatives of the State or Local Licensing Authority, the Licensee shall open the area for inspection.
- C. Each Licensee shall retain all books and records necessary to show fully the business transactions of the Licensee for a period of the current tax year and the three (3) immediately prior tax years.

Section 8. Grandfather Clause.

The currently licensed medical marijuana facilities located at 4332 S. Broadway, Englewood, CO 80113; 11 W. Hampden Ave., L100 and L200, Englewood, CO 80110; and 3751 S. Broadway, Englewood, CO 80113 which were legally in existence as a business location prior to the effective date of Ordinance No. 34, Series of 2009, and are listed by the State as meeting the deadline for application shall be grandfathered and shall be considered to be:

1. A legal Medical Marijuana Center used for the purposes of Title 16 EMC.
2. A Legal nonconforming size under Title 16 EMC. if, on the effective date of this ordinance, it can show that the square footage of the existing licensed use exceeds the maximum square footage limit in this ordinance. This showing must be by a detailed drawing of the currently licensed premises acceptable to the City Manager or designee.

Once a Medical Marijuana use has been found to be grandfathered it shall be subject to all other requirements of the Title 16-9-1 et.seq.

Section 9. Safety Clauses. The City Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Englewood, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

Section 10. Severability. If any clause, sentence, paragraph, or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance or its application to other persons or circumstances.

Section 11. Inconsistent Ordinances. All other Ordinances or portions thereof inconsistent or conflicting with this Ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

Section 12. Effect of repeal or modification. The repeal or modification of any provision of the Code of the City of Englewood by this Ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purposes of sustaining any and all proper actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

Section 13. Penalty. The Penalty Provision of Section 1-4-1 EMC shall apply to each and every violation of this Ordinance unless otherwise specified in the Ordinance.

Introduced, amended, read in full, and passed as amended on first reading on the 4th day of April, 2011.

Published as amended by Title as a Bill for an Ordinance in the City's official newspaper on the 8th day of April, 2011.

Published as an amended Bill for an Ordinance on the City's official website beginning on the 6th day of April, 2011 for thirty (30) days.

A Public Hearing was held on April 18th, 2011.

Read in full, amended and passed as amended on first reading on the 2nd day of May, 2011.

Published as amended by Title as a Bill for an Ordinance in the City's official newspaper on the 6th day of May, 2011.

Published as an amended Bill for an Ordinance on the City's official website beginning on the 4th day of May, 2011 for thirty (30) days.

Read by Title and passed on final reading on the 16th of May, 2011.

Published by Title in the City's official newspaper as Ordinance No. ____, Series of 2011, on the 20th day of May, 2011.

Published by Title on the City's official website beginning on the 18th day of May, 2011 for thirty (30) days.

James K. Woodward, Mayor

ATTEST:

Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of the Ordinance passed on final reading and published by Title as Ordinance No. ____, Series of 2011.

Loucrishia A. Ellis