

**Agenda for the
Regular Meeting of the
Englewood City Council
Monday, November 18, 2013
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 November 4, 2013.
 - b. City Council Recognition and Swearing In.
 - i. The Mayor will ask the City Clerk to announce the status of the election.
 - ii. City Council will make a determination of the election and qualifications of its membership.
 - iii. Comments and recognition of families and/or guests by the departing member of City Council.
 - Mike Fordyce, President and CEO of Craig Hospital will be present to recognize Mayor Pro Tem Woodward.
 - iv. The newly-elected/re-elected City Council Members will be sworn in by the Honorable Judge Vincent Atencio.
 - v. Members of City Council are seated (in temporary spaces) and the Mayor asks the City Clerk to call the roll of City Council Members. The Mayor will then declare whether a quorum is present.
 - vi. The Mayor calls for nominations for Mayor.
 - vii. The Mayor assumes the Chair and calls for nominations for Mayor Pro Tem.

Please note: If you have a disability and need auxiliary aids or services, please notify the City of Englewood (303-762-2405) at least 48 hours in advance of when services are needed.

- viii. Permanent seating assignments are selected by seniority.
 - ix. Recognition of families and/or guests of the newly-elected/re-elected Members of City Council.
 - x. Brief Reception.
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.)
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.
- a. An email from Jeannette Sarconi announcing her resignation from the Alliance for Commerce in Englewood.
9. Consent Agenda Items.
- a. Approval of Ordinances on First Reading.
 - i. Council Bill No. 61 – Recommendation from the Department of Library Services to approve a bill for an ordinance authorizing the application for, and acceptance of, a grant from the Colorado State Library in the amount of \$7,637. **Staff Source: Dorothy Hargrove, Director of Library Services.**
 - b. Approval of Ordinances on Second Reading.
 - i. Council Bill No. 58 – Approving an addendum to the Broken Tee Grill restaurant contract modifying the payment schedule.
 - ii. Council Bill No. 59 – Approving the consolidation of the intergovernmental agreements between the City and Englewood Public Schools relating to shared services and joint activities.
 - c. Resolutions and Motions.
10. Public Hearing Items. (None scheduled.)

11. Ordinances, Resolutions and Motions
 - a. Approval of Ordinances on First Reading.
 - i. Council Bill No. 60 -- Recommendation from the Community Development Department to approve a bill for an ordinance authorizing amendments to Title 16: Unified Development Code regarding Home Occupations. Staff further recommends setting December 2, 2013 as the date for a Public Hearing to gather public input on the proposed amendments. **Staff Source: Chris Neubecker, Senior Planner.**
 - b. Approval of Ordinances on Second Reading.
 - c. Resolutions and Motions.
12. General Discussion.
 - a. Mayor's Choice.
 - b. Council Members' Choice.
 - i. Discussion of results of Questions No. 2B and Questions No. 300 on the November 5, 2013 ballot.
13. City Manager's Report.
14. City Attorney's Report.
15. Adjournment.

Lindsay Von Colditz

Subject: FW: ACE Resignation from Jeannette Sarconi

From:

To:

Subject: FW: Meeting Packet for November 14, 2013

Date: Fri, 8 Nov 2013 22:48:30 +0000

Hello Chad

Hope all is well. Regrettably, I will be withdrawing my board membership with ACE. My job duties have changed and I am unable to give the board my full attention as it deserves. I enjoyed my time serving with ACE and all the great people I served with. Best wishes to all.

Thank you,

Jeannette B. Sarconi

COUNCIL COMMUNICATION

Date: November 18, 2013	Agenda Item: 9 a i	Subject: Acceptance of grant funds from the State of Colorado Dept. of Education for the Englewood Public Library
Initiated By: Library Services		Staff Source: Dorothy Hargrove, Director of Library Services

COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

This grant was discussed at the September 16, 2013 Study Session and Council expressed support for the Library to proceed with the grant application.

RECOMMENDED ACTION

The Library requests that Council approve a bill for an ordinance authorizing the application for, and acceptance of, a grant from the Colorado State Library in the total amount of \$7,637. These funds are designated solely for the purchase of library books and other materials supporting early childhood literacy. These materials will be cataloged and made available for circulation to our community.

BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

The State of Colorado has in past years granted similar allocations for public, school and academic libraries throughout the state, but the funding for these grants was only restored in the most recent legislative session. The amount of funding is based on population served and the number of entities requesting funds. In exchange the City will report to the State details on purchases, as well as the impact these additional books have on library service to the community.

FINANCIAL IMPACT

The grant stipulates that these funds will supplement, not replace, budgeted funding from local sources, so there will be no cost or savings for the City. There is no requirement for additional matching funds.

LIST OF ATTACHMENTS

Proposed Bill for an Ordinance

BY AUTHORITY

ORDINANCE NO. _____
SERIES OF 2013 _____

COUNCIL BILL NO. 61
INTRODUCED BY COUNCIL
MEMBER _____

A BILL FOR

AN ORDINANCE AUTHORIZING THE ACCEPTANCE OF AN INTERGOVERNMENTAL PUBLIC LIBRARY GRANT FROM THE COLORADO STATE LIBRARY.

WHEREAS, the State Grants for Libraries Act (C.R.S. 24-90-401) provides for State grants for libraries; and

WHEREAS, this Grant is subject to requirements of the funded program as specified in the guidelines which include a commitment to obtain educational resources that libraries would otherwise be unable to afford; and

WHEREAS, authorized activities include:

- Expenditures for educational resources to support the educational and informational needs and activities of residents, students, or faculty.
- Expenditures for educational resources that support or enhance opportunities for early literacy and early learning.
- An end-of-grant report that describes how the grant funds were used and statistical and/or anecdotal reports on the benefits of the grant-funded resources.; and

WHEREAS, the Englewood City Council was appraised of the availability of funds through the Colorado State Library at the September 16, 2013 Study Session; and

WHEREAS, the Colorado State Library has awarded the Englewood Public Library \$7,637 for the funding period October 1, 2013 through June 1, 2014.

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

Section 1. The City Council of the City of Englewood, Colorado hereby authorizes the acceptance of the Colorado Public Library Grant to the Englewood Public Library in the amount of \$7,637, attached hereto as Exhibit A.

Introduced, read in full, and passed on first reading on the 18th day of November, 2013.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 22nd day of November, 2013.

Published as a Bill for an Ordinance on the City's official website beginning on the 20th day of November, 2013 for thirty (30) days.

Randy P. Penn, 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 a Bill for an Ordinance, introduced, read in full, and passed on first reading on the 18th day of November, 2013.

Loucrishia A. Ellis

COLORADO DEPARTMENT OF EDUCATION
COLORADO STATE LIBRARY AWARD NOTIFICATION
STATE GRANTS FOR LIBRARIES ACT
201 EAST COLFAX AVE., ROOM 304
DENVER, CO 80203

EXHIBIT A

Subgrantee Information:

City of Englewood / Englewood Public Library

Date: October 28, 2014

Action # 1

Action Type Budget Approval

Current Year Allocation: \$ 7637

Legislative and Fiscal Data:

Program Title: State Grants for Libraries
Authority: State Grants for Libraries Act (C.R.S. 24-90-401)
Funding Period: October 1, 2013 – June 30, 2014
State Grant Code: 3207

Terms and Conditions of Award:

- This grant award is made subject to the provisions of all applicable acts and regulations.
- This grant award is made subject to the applicable provisions of the State Grants for Libraries Act C.R.S. 24-90-401.
- The CDE may terminate a grant award upon thirty (30) days notice if it is deemed by CDE that the applicant is not fulfilling the requirements of the funded program as specified in the guidelines.

Program Requirements:

The program requirements include a commitment to obtain educational resources that libraries would otherwise be unable to afford, to the end that the state will receive the corresponding benefits of a better educated and informed population.

Authorized Activities:

- Expenditures for educational resources to support the educational and informational needs and activities of residents, students, or faculty.
- Expenditures for educational resources that support or enhance opportunities for early literacy and early learning.

Fiscal Requirements:

- If any finding of misuse of these funds are discovered, project funds will be returned to CDE
- An end-of-grant report that describes how the grant funds were used and statistical and/or anecdotal reports on the benefits of the grant-funded resources.
- Cashing of award check will indicate grantee's acceptance of the award and compliance with the State statutory and regulatory requirements.

This Subaward Agreement represents the entire agreement and understandings between the Parties with respect to its subject matter. Any modifications to this agreement shall be made in writing and must be signed by the authorized representatives of both parties.

10/29/13

Colorado State Library

Date



**PUBLIC LIBRARY GRANT ELIGIBILITY FORM
FY 2013-2014 STATE GRANTS FOR LIBRARIES
COLORADO STATE LIBRARY**

FY 2013-2014 State Grants for Libraries are provided by the Colorado State Library to enable public libraries, school libraries, and academic libraries to obtain educational resources they would otherwise be unable to afford, to the end that the state will receive the corresponding benefits of a better educated and informed population. (C.R.S. 24-90-402)

**Due Date: Tuesday, October 1, 2013
5:00p.m**

- Please read the FY2013-2014 State Grants for Libraries Guidelines carefully to understand eligibility requirements, eligible uses, timeline for expenditure of funds, and reporting requirements.
- Complete and submit the appropriate Grant Eligibility Form by **October 1, 2013**, to certify that the library meets the requirements to receive funding and intends to use the funds as required by law.
- Secure the appropriate signatures on this Grant Eligibility Form. Omitting required signatures may disqualify the applicant.
- Completed forms may be provided via E-mail, Mail, Fed-Ex, Courier, or Hand-Delivered.
- The State Library receives no Mail or Fed-Ex deliveries on the weekends.
- All Mail goes to a central processing unit before delivery to State Library which can delay receipt.
- Allow at least 3 business days for processing.

Send original (or scanned, signed copy) to:

Colorado Department of Education
Colorado State Library
Attn: Susan Burkholder
201 East Colfax Avenue, Room 304
Denver, Colorado 80203-1799
email:
Courier Code: C912



cde

COLORADO DEPARTMENT of EDUCATION

Public Library Grant Eligibility Form

State Grants to Libraries 2013-2014

Name of library/library district Englewood Public Library
Contact Person Name and Title Dorothy Hargrove, Library-Director
Telephone 303-762-2553
Email

This certifies that the Englewood Public Library meets all requirements to receive funding. Please type in an X for Yes or No for each requirement:

Eligibility Requirement	Yes	No
1. Will utilize this funding to purchase eligible educational resources to augment learning and early literacy efforts of the library	X	
2. Legally established and operated under Colorado Library Law.	X	
3. Borrows and lends to other Colorado libraries without a charge	X	
4. Belongs to the Colorado Libraries Collaborate Program http://www.cde.state.co.us/cdelib/clc	X	
5. Makes no charges to primary clientele to use the interlibrary loan service or access the Internet	X	
6. Meets the Internet access by minors requirements in C.R.S. 24-90-404(C)(I,II,III) http://www.cde.state.co.us/cdelib/librarylaw/Part4.htm	X	
7. Staffing and service hours – has paid staff available in the library for a minimum of 20 hours each week	X	
8. Reporting – will submit report to State Library by August 15, 2014	X	
9. Under the TABOR amendment, can the institution accept the amount allocated to the institution?	X	

Maintenance of Effort Requirements. This State Grants for Libraries funding is designed to supplement, not supplant, local funding for libraries. To be eligible, applicants must demonstrate their effort to obtain funds from existing local revenue sources. Please provide the following library collection budget information for your current fiscal year and the previous three years of actual expenses:

	Library collection budget (including database subscriptions), minus any grants to the library for collections
FY2010 (actual)	\$189,462
FY2011 (actual)	\$180,624
FY2012 (actual)	\$185,520
FY2013 (budgeted)	\$185,300

If the FY2013 library collection budget is less than the average of the previous three years, the Colorado State Library will contact you for additional information to determine your eligibility.

Chair of Board of Trustees or other appropriate authority:

Type name and title: Gary Sears, City Manager, City of Englewood

Signature _____

Date

9/12/13

Library Director:

Type name and title: Dorothy Hargrove, Director of Library Services

Signature _____

Date

9/17/13

For State Library use only:

Meets eligibility requirements Yes _____ No _____ Grant Award \$ _____

Assistant Commissioner Date

Grants Administrator

Date

BY AUTHORITY

ORDINANCE NO. _____
SERIES OF 2013 _____

COUNCIL BILL NO. 58
INTRODUCED BY COUNCIL
MEMBER WOODWARD

AN ORDINANCE AUTHORIZING ADDENDUM NO. 1 TO THE BROKEN TEE GRILL, LLC. CONCESSIONAIRE AGREEMENT.

WHEREAS, the Englewood City Council authorized the Golf Course Restaurant Concessionaire Agreement with Broken Tee Grill, LLC. by the passage of Ordinance No. 65, Series of 2012; and

WHEREAS, due to the slow business in the winter months of January, February, March and December the Broken Tee Grill, LLC has requested an adjustment in the terms of the rent schedule; and

WHEREAS, the current agreement requires a monthly payment of \$3,000 per month for the months commencing on January 1st and ending in December; and

WHEREAS, the passage of this Ordinance would amend the current Agreement by requiring \$4,500 payments in 8 installments (April 1 through November 1) for the same annual total of \$36,000; and

WHEREAS, this has been done previously with other restaurant vendors and has proven to be successful.

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

Section 1. The City Council of the City of Englewood, Colorado hereby approves "Addendum NO. 1" to the Golf Course Restaurant Concessionaire Agreement between the City of Englewood and the Broken Tee Grill, LLC, attached hereto as Exhibit A.

Section 2. The Mayor is authorized to execute and the City Clerk to attest and seal Addendum NO. 1 for and on behalf of the City of Englewood, Colorado.

Introduced, read in full, and passed on first reading on the 4th day of November, 2013.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 8th day of November, 2013.

Published as a Bill for an Ordinance on the City's official website beginning on the 6th day of November, 2013 for thirty (30) days.

Read by title and passed on final reading on the 18th day of November, 2013.

Published by title in the City's official newspaper as Ordinance No. ____, Series of 2013, on the 22nd day of November, 2013.

Published by title on the City's official website beginning on the 20th day of November, 2013 for thirty (30) days.

Randy P. Penn, 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 2013.

Loucrishia A. Ellis

Addendum NO. 1

THIS ADDENDUM NO. 1 to the Broken Tee Grill, LLC. Concessionaire Agreement, made and entered into this ____ day of _____, 20____, by and between the CITY OF ENGLEWOOD, a Colorado municipal corporation, hereinafter referred to as "City", and BROKEN TEE GRILL, LLC, hereinafter referred to as "Concessionaire".

The Concessionaire agrees to renew the Broken Tee Grill, LLC. Concessionaire Agreement with Section 12 – Rent amended as follows:

Section 12. RENT.

a) Concessionaire shall pay rent to the City in accordance with the following schedule:

- i. Concessionaire shall pay \$4,500 per month in 8 installments April 1, 2014 through November for a total of \$36,000.
- ii. The aforesaid fixed rent payments shall be paid each month, in advance, on the first day of each month or on the first Monday of each month if the first day falls on Saturday or Sunday.

A penalty fee of \$10.00 per day or part thereof shall be charged for each day or part thereof that the rent is past due, until 12:00 midnight on the 14th day past due. If the rent payment is not received by midnight on the 14th day past due, the Concessionaire shall be in violation of the terms of this Agreement, and subject to termination.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals as of the day and year first above written.

CITY OF ENGLEWOOD, COLORADO

BROKEN TEE GRILL, LLC.

"City"

"Concessionaire"

By _____
Randy P. Penn, Mayor

By _____
Craig Caldwell

ATTEST:

Loucrishia A. Ellis, City Clerk

BY AUTHORITY

ORDINANCE NO. _____
SERIES OF 2013 _____

COUNCIL BILL NO. 59
INTRODUCED BY COUNCIL
MEMBER GILLIT

AN ORDINANCE APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF ENGLEWOOD AND THE ARAPAHOE COUNTY SCHOOL DISTRICT NO. 1 CONSOLIDATING PREVIOUS SHARED SERVICE AND JOINT ACTIVITY INTERGOVERNMENTAL AGREEMENTS BETWEEN THE TWO PARTIES; MODIFYING AGREEMENTS CONCERNING HOSANNA FIELD AND AUTHORIZING APPLICATIONS FOR GRANTS.

WHEREAS, shared service and joint activity intergovernmental agreements have been identified between the Englewood Parks and Recreation Department and the Englewood School District; and

WHEREAS, many of the agreements shall remain in place and do not need to be modified; and

WHEREAS, Ordinance No. 1, Series of 1998/1999 pertaining to the City hosting the Englewood Schools Website has terminated because Englewood Schools now have their own website; and

WHEREAS, an Intergovernmental Agreement dated July 15, 1974 pertaining to tennis and handball courts is terminated because the handball courts now belong to the School District and the tennis courts were removed and replaced with an inline hockey rink; and

WHEREAS, Ordinance No. 41, Series of 1984 pertaining to Maddox Elementary Use space for Nature Center has terminated because the Nature Center no longer exists; and

WHEREAS, Ordinance No. 6, Series of 1984 pertaining to the Englewood High School Swimming Pool Use has terminated because the EHS swimming pool has been torn down as part of the new 7-12 Campus Project; and

WHEREAS, a Joint Responsibility Letter regarding Englewood High School Tennis Courts has terminated because the EHS tennis courts have been torn down as part of the new 7-12 Campus Project; and

WHEREAS, Ordinance No. 17, Series of 1983 and Ordinance No. 12, Series of 1987, concerning the Hosanna Complex need to be modified so as to reflect the current agreement between the parties; and

WHEREAS, the parties wish to share in the development of a synthetic field at the 7-12 Campus and desire to set forth their understanding in that regard.

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

Section 1. The following Agreements shall remain:

Ordinance No. 57, Series of 2012 – New 7-12 Campus Projects for Bldg. Use Tax

- The following projects were identified and have been completed as part of the sales tax rebate: Alternate 2 (includes \$24,000 for intersection improvements); Parking along Lehigh (not less than 40 spaces); Mansfield Parking (not less than 29 spaces); Traffic Signal Improvements at Logan/Mansfield.

Ordinance No. 38, Series of 2005 – Inline Hockey, Joint Responsibility of Rink/Basketball Court at Sinclair MS (Alternative High School)

Ordinance No. 37, Series of 2011 - Community Gardens at Charles Hay/Clayton

Ordinance No. 36, Series of 1998 – Clayton Elementary Athletic Field

Ordinance No. 14, Series of 2013 – CFAHS/Gyms Use of Gymnasiums by City IGA

Ordinance No. 66, Series of 2011- Flat 14ers Project to keep kids healthy/active IGA

All Schools Memorandum of Understanding Distribution of Program Flyers.

Section 2. The following Agreements shall be terminated:

Ordinance No. 1, Series of 1998/1999 –City to Host School Website

Intergovernmental Agreement dated July 15, 1974 -Tennis & Handball Courts

Ordinance No. 41, Series of 1984 – Maddox Elementary Use space for Nature Center

Ordinance No. 56, Series of 1999 – Flood Middle School Beautification Project

Ordinance No. 6, Series of 1984 – Englewood High School Swimming Pool Use

Joint Responsibility Letter – Englewood High School Tennis Courts.

Section 3. The following Agreements shall be modified as follows:

Ordinance No. 17, Series of 1983 – Hosanna Complex Detention Pond Intergovernmental; Agreement and Ordinance No. 12, Series of 1987 –Hosanna Complex Detention Pond; Intergovernmental Agreement Shared Maintenance Adjustment shall be modified as follows:

- School District and City will share the annual maintenance costs at a 50/50 split less any revenues received from the rental of the site (Athletic Fields, Baseball Field and Softball Field).

- All scheduling of the complex will continue to be administered by the City.
- Englewood Schools will continue to have first priority on usage. The City will receive second priority regarding usage. After City use, the City will rent the facilities out to the public to help offset the total maintenance cost. (Revenues generated from rentals will be deducted from the total maintenance cost before the maintenance expenditures are split between both parties).
- The School District will be responsible for school activity functions (lining fields, field set up, restrooms, access, etc.). The City will be responsible for City and rental activities (field set up, restrooms, access, etc.).
- Englewood Schools will maintain and be responsible for all above ground facilities at the Hosanna Athletic Complex. These are items such as: buildings, fencing, dugouts, bleachers, goals, etc.
- Parks and Recreation will maintain and be responsible for all below ground facilities at the Hosanna Athletic Complex. This is to include: mowing, aeration, fertilization, irrigation, pesticide application, tree maintenance, infield and warning track amendments and maintenance and all ball field/athletic field maintenance (sod, infield edges, mounds, warning track, bases and anchors).
- Each organization shall be responsible for the activities and functions which they schedule on the fields. This includes field lining, restrooms, access, trash disposal, etc. During the remainder of the year, Parks staff will empty trash receptacles when there are no functions scheduled.
- Supplies for the restrooms will be supplied by the Schools (TP, paper towels, soap). Snow removal will be completed by Parks staff throughout the complex, up to but not including the stairs on the southern portion of the complex.
- It is also agreed upon that Parks staff and School staff will conduct a monthly meeting in order to further communication on the scheduling of events at the complex, field striping and any other maintenance related issues that arise. Monthly meetings will occur between February and September on a mutually agreed upon day and time for the season.

Section 4. Englewood Schools and the City of Englewood will share in the development of a synthetic field at the 7 – 12 Campus.

- City Council authorizes the City Manager or designee to apply for grants to help fund the construction of the new field.
- The School District will fund any additional costs beyond the grant amounts received by the City.
- The School District will maintain the field and will assume all costs related to maintenance.
- The City will schedule all activities on the site. Englewood Schools will continue to have first priority on usage. The City will receive second priority regarding usage.
- All revenues received from rental of the site will be deposited in a capital replacement fund account. This fund will be used strictly for replacement of the turf at the end of its life span.

Section 5. The Agreement Between the City of Englewood and the Arapahoe County School District No. 1 is attached hereto as Exhibit A.

Introduced, read in full, and passed on first reading on the 4th day of November, 2013.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 8th day of November, 2013.

Published as a Bill for an Ordinance on the City's official website beginning on the 6th day of November, 2013 for thirty (30) days.

Read by title and passed on final reading on the 18th day of November, 2013.

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Published by title on the City's official website beginning on the 20th day of November, 2013 for thirty (30) days.

Randy P. Penn, 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 2013.

Loucrishia A. Ellis

AGREEMENT BETWEEN THE CITY OF ENGLEWOOD AND
THE ARAPAHOE COUNTY SCHOOL DISTRICT NO. 1

This agreement, entered into this ____ day of _____, 20____, by and between the City of Englewood, a Colorado Home Rule Municipality (herein called "City") and the Englewood School District.

WHEREAS, shared services and joint activities have been identified between the Englewood Parks and Recreation Department and the Englewood School District.

Section 1. The following Agreements shall remain in place:

- Ordinance No. 57, Series of 2012 – New 7-12 Campus Projects for Bldg. Use Tax
 - The following projects were identified and have been completed as part of the sales tax rebate: Alternate 2 (includes \$24,000 for intersection improvements); Parking along Lehigh (not less than 40 spaces); Mansfield Parking (not less than 29 spaces); Traffic Signal Improvements at Logan/Mansfield.
- Ordinance No. 38, Series of 2005 – Inline Hockey, Joint Responsibility of Rink/Basketball Court at Sinclair MS (Alternative High School)
- Ordinance No. 37, Series of 2011 - Community Gardens at Charles Hay/Clayton
- Ordinance No. 36, Series of 1998 – Clayton Elementary Athletic Field
- Ordinance No. 14, Series of 2013 – CFAHS/Gyms Use of Gymnasiums by City IGA
- Ordinance No. 66, Series of 2011- Flat 14ers Project to keep kids healthy/active IGA
- All Schools Memorandum of Understanding Distribution of Program Flyers

Section 2. The following Agreements shall be terminated:

- Ordinance No. 1, Series of 1998/1999 –City to Host School Website
- Intergovernmental Agreement dated July 15, 1974 -Tennis & Handball Courts
- Ordinance No. 41, Series of 1984 – Maddox Elementary Use space for Nature Center
- Ordinance No. 56, Series of 1999 – Flood Middle School Beautification Project
- Ordinance No. 6, Series of 1984 – Englewood High School Swimming Pool Use
- Joint Responsibility Letter – Englewood High School Tennis Courts

Section 3. Ordinance No. 17, Series of 1983 – Hosanna Complex Detention Pond Intergovernmental Agreement and Ordinance No. 12, Series of 1987 – Hosanna Complex Detention Pond Intergovernmental Agreement Shared Maintenance Adjustment shall be modified as follows:

- School District and City will share the annual maintenance costs at a 50/50 split less any revenues received from the rental of the site (Athletic Fields, Baseball Field and Softball Field).
- All scheduling of the complex will continue to be administered by the City.
- Englewood Schools will continue to have first priority on usage. The City will receive second priority regarding usage. After City use, the City will rent the facilities out to the public to help offset the total maintenance cost. (Revenues generated from rentals will be deducted from the total maintenance cost before the maintenance expenditures are split between both parties).
- The School District will be responsible for school activity functions (lining fields, field set up, restrooms, access, etc.). The City will be responsible for City and rental activities (field set up, restrooms, access, etc.).
- Englewood Schools will maintain and be responsible for all above ground facilities at the Hosanna Athletic Complex. These are items such as: buildings, fencing, dugouts, bleachers, goals, etc.
- Parks and Recreation will maintain and be responsible for all below ground facilities at the Hosanna Athletic Complex. This is to include: mowing, aeration, fertilization, irrigation, pesticide application, tree maintenance, infield and warning track amendments and maintenance and all ball field/athletic field maintenance (sod, infield edges, mounds, warning track, bases and anchors).
- Each organization shall be responsible for the activities and functions which they schedule on the fields. This includes field lining, restrooms, access, trash disposal, etc. During the remainder of the year, Parks staff will empty trash receptacles when there are no functions scheduled.
- Supplies for the restrooms will be supplied by the Schools (TP, paper towels, soap). Snow removal will be completed by Parks staff throughout the complex, up to but not including the stairs on the southern portion of the complex.
- It is also agreed upon that Parks staff and School staff will conduct a monthly meeting in order to further communication on the scheduling of events at the complex, field striping and any other maintenance related issues that arise. Monthly meetings will occur between February and September on a mutually agreed upon day and time for the season.

Section 4. Englewood Schools and the City of Englewood will share in the development of a synthetic field at the 7 – 12 Campus.

- City Council authorizes the City Manager or designee to apply for grants to help fund the construction of the new field.
- The School District will fund any additional costs beyond the grant amounts received by the City.
- The School District will maintain the field and will assume all costs related to maintenance.
- The City will schedule all activities on the site. Englewood Schools will continue to have first priority on usage. The City will receive second priority regarding usage.
- All revenues received from rental of the site will be deposited in a capital replacement fund account. This fund will be used strictly for replacement of the turf at the end of its life span.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first written above.

ATTEST:

CITY OF ENGLEWOOD

Loucrishia A. Ellis, City Clerk

Randy P. Penn, Mayor

ARAPAHOE SCHOOL DISTRICT
NO. 1

/

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COUNCIL COMMUNICATION

Date: November 18, 2013	Agenda Item: 11 a i	Subject: An Ordinance Adopting Amendments to Title 16 Concerning Home Occupations
Initiated By: Community Development Department		Staff Source: Chris Neubecker, Senior Planner

COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

On May 20, 2013 Council directed staff to research this topic and discuss possible changes to the Home Occupation regulations with Planning and Zoning Commission. The request was to consider allowing Home Occupations in the R-1-A zone district, while developing criteria to protect the exclusivity and character of the R-1-A zone.

PREVIOUS PLANNING COMMISSION ACTION

The Planning and Zoning Commission conducted a public hearing on October 8, 2013 to consider the proposed amendments to Title 16: Unified Development Code amending regulations concerning Home Occupations. Two members of the public were present, and one member testified. Following discussion, the Commission voted in favor of forwarding to City Council proposed amendments to Chapter 5: Use Regulations, as presented in the attached Bill for an Ordinance.

RECOMMENDED ACTION

The Community Development Department recommends adoption of a Bill for an Ordinance authorizing amendments to Title 16: Unified Development Code regarding Home Occupations on First Reading, and setting December 2, 2013 as the date for a Public Hearing to consider testimony on the proposed amendments.

BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

In May 2013, the City Council raised concerns about limitations of the current Home Occupations policy, which currently prohibits Home Occupations in the R-1-A zone district. The Council asked staff and the Planning and Zoning Commission to research this issue as it pertains to R-1-A, in order to allow uses that do not impact the neighborhood, such as bookkeeping, internet based businesses, consulting services, and similar uses which do not require clients coming to the home.

The Planning and Zoning Commission reviewed the proposed changes on June 4, July 3, and August 8, 2013. On October 8, 2013 the Commission held a public hearing and recommended that City Council

approve an ordinance to amend the Home Occupations regulations. The proposed changes would allow Home Occupations in the R-1-A zone district, as well as any other district or PUD where residential uses are approved.

Some of the key elements of this proposal include:

- Home Occupations would be allowed in R-1-A zone districts.
- Exterior signage, window displays and outdoor merchandise would be prohibited in R-1-A zone districts. This is to protect the special character and exclusivity of the R-1-A zone district.
- Home Occupations would be allowed in accessory structures, such as garages. The intent of this change is to promote free enterprise, and to allow for the potential for new businesses that start in a garage, such as Apple, Hewlett-Packard, Google, and Disney.
- Limitations on use of electric motors would be removed from the regulations. Noise and other impacts to neighbors would be addressed by referring to Title 15 dealing with nuisances.
- New prohibited uses would include food preparation, manufacture of alcohol, and landscaping industries.
- Additional language is proposed to clarify that the administrative or clerical functions of businesses would be allowed for home occupations that are otherwise prohibited. (Example: Bookkeeping and office functions of a landscaping business would be allowed).
- Removing the limitation of only one (1) home occupation per dwelling unit. The Commission wanted to allow multiple businesses in one residence, since there may be several members of a household each operating a business.

Other changes are proposed to clarify these regulations, include the following:

- Deleting the word "incidental" in favor of the word "secondary" in the introductory paragraph. This was done since "incidental" implies something that happens merely by chance or without intention. However, starting a new business deserves extensive thought and planning, and is usually not incidental.
- Add "food preparation" to restaurants as a prohibited business type.
- Prohibit manufacture of wine, distilled spirits and malt beverages.
- Require that all materials used in the home occupation shall be stored indoors.
- Require that home occupations register with the City prior to start of operations. Otherwise, registration may not happen in a timely manner.

ANALYSIS

Home based businesses are a growing trend around the world. Modern telecommunications now allow people to work from almost any location for many industries. Advances in e-commerce, based primarily around the internet, allow individuals to run businesses from their homes with virtually no impact to surrounding residential uses. Prices for desktop and laptop computers continue to fall while becoming more powerful tools and providing faster connections to potentially billions of customers around the globe. Parcel delivery services also allow businesses to send and receive packages to customers and clients with the same efficiency as traditional offices.

However, some types of Home Occupations still have the potential to cause disturbance, noise, odors and safety impacts to nearby residents. Some industries have more potential impact on public health, or require greater space (such as vehicle and equipment storage).

Some of the issues that the Planning and Zoning Commission discussed include the parking of commercial vehicles at Home Occupations, and the number of potential customers that might come to a private residence. Proposals to prohibit parking of commercial vehicles in the R-1-A zone were removed due to conflicts with a citizen ballot initiative (2D) approved in 2011. Also, prohibitions on customers and clients coming to a Home Occupation in the R-1-A zone district were removed from earlier drafts, as this was seen as vital to operating a business for some industries.

Staff notes that after this topic was reviewed by the Planning Commission, we received an inquiry from a local resident about a possible food preparation business, based on the Colorado Cottage Food Act of 2012. (Please see the attached letter from Abigail Berry). This state law allows preparation of certain foods at private residences with sales directly to the consumer. The law limits the types of foods that may be prepared in private homes to those that are "nonpotentially hazardous and do not require refrigeration". Allowed foods include spices, teas, dehydrated produce, nuts, seeds, honey, jams, jellies, preserves, fruit butter, baked goods and candies. Since this state law was not discussed by the Planning Commission, and since the prohibition of food preparation was suggested by staff to include food preparation other than restaurants, we would like the Council to decide if this prohibition on food preparation should be removed.

FINANCIAL IMPACT

There is no direct impact to the City as a result of this ordinance. Over the past 10 years, approximately 720 Home Occupations have registered with the City. It is unclear how many of these businesses are still in operation, or how many of these people still live in the City. Indirectly, it is anticipated that this ordinance will have a positive financial impact on the community by encouraging existing entrepreneurs to open businesses at home, encouraging new home buyers to locate in the City, and preventing "leakage" of sales tax dollars when home based businesses owners shop locally.

LIST OF ATTACHMENTS

Planning and Zoning Commission Staff Report - October 8, 2013
Planning and Zoning Commission Minutes - October 8, 2013
Planning and Zoning Commission Findings of Fact - Case No. 2013-04
Letter from Abigail Berry
Bill for an Ordinance



M E M O R A N D U M

TO: Planning & Zoning Commission

THRU: Alan White, Community Development Director

FROM: Chris Neubecker, Senior Planner ✓

DATE: October 8, 2013

SUBJECT: Case 2013-04 – Public Hearing
Home Occupations

Recommendation:

The Community Development Department requests that the Planning and Zoning Commission review, take public testimony, and forward to City Council a recommendation for adoption proposed amendments to the Unified Development Code of the Englewood Municipal Code Title 16, Chapter 5, Use Regulations, relating to Home Occupations.

Background:

On August 6, 2013, the Planning and Zoning Commission reviewed a proposal to modify the existing policy on Home Occupations (EMC 16-5-4 C 1). This review was in response to City Council concerns about existing restrictions that prohibit home occupations in the R-1-A district, which is the residential district with the largest single family lots in the city. The Planning and Zoning Commission supported most of the proposed changes, but raised concerns about some of the proposed restrictions on commercial vehicles in light of the Citizen Referendum 2D, codified as Ordinance 1, Series 2011/2012.

Some Commissioners also raised concerns about prohibiting customers, clients and vendors from visiting a home occupation, although the majority supported this restriction.

Analysis:

Home Occupations are currently allowed as an Accessory Use in the following zoning districts: R-1-B, R-1-C, R-2-A, R-2-B, MU-R-3-A, and MU-R-3-B. Staff believes that home occupations could also be allowed in the R-1-A district (and any other district where residential uses are allowed) with certain restrictions to protect the residential character of neighborhoods. These proposed restrictions include:

All zoning districts:

- Require materials and equipment used in the home occupation to be stored indoors.
- Allow only one sign per residence, up to one square foot

R-1-A zoning district:

- Prohibit customers, sales and display of goods in the R-1-A district
- Prohibit exterior business signs in the R-1-A district

Commercial Vehicles:

At the last meeting on this topic, some Commissioners raised concerns about prohibiting parking of commercial vehicles at home occupations in the R-1-A zone district. This idea was proposed to preserve the residential character and exclusivity in the R-1-A districts. However, enforcement of this rule may be a challenge. While some commercial vehicles may fit within a garage out of sight from the neighbors, others will be forced to park in a driveway or on the public street. Also, it may be difficult to distinguish between a commercial vehicle used in a home occupation from a commercial vehicle on a normal service call, or a vehicle that an employee takes home from work. Due to these concerns, and those raised by the Commission about Ballot Question 2D concerning parking vehicles on private property, the draft language on parking has been removed from the attached version.

On Site Sales:

The Commission did not reach a consensus on sales of goods or services at a home occupation in the R-1-A zone district. Some agreed that sales, customers and clients should be prohibited at home occupations to preserve the residential character. Others felt that customers and clients coming to a residential property is a vital part of operating a home based business. The concern focused on the number of people and cars per day, which could be significant at times. One example was a tax accountant in March and April, which could generate many daily visits during the busiest times of the tax season.

Staff does not believe that customer traffic will be significant in most cases. Also, we believe that most of the potential impacts of home occupations are addressed by limiting uses, prohibiting exterior signs and display of merchandise, and prohibiting employees not residing at the property.

Recommendation

Staff believes that the proposed draft code changes capture the intent and consensus of the Commission from the meeting of August 6. We believe that these changes help support new business development but will also help protect community character in the R-1-A districts.

A motion to recommend approval of the ordinance to City Council is needed.

Next Steps

We hope to develop a consensus of the Planning and Zoning Commission at this hearing. If the Planning & Zoning Commission recommends approval, we intend to move forward with first reading of an ordinance by City Council.

Attachments:

Amendments to Title 16 pertaining to Home Occupations

**CITY OF ENGLEWOOD PLANNING AND ZONING COMMISSION
REGULAR MEETING
October 8, 2013**

Minutes and audio are available at:
<http://www.englewoodgov.org/Index.aspx?page=152>



I. CALL TO ORDER

The regular meeting of the City Planning and Zoning Commission was called to order at 7:00 p.m. in the City Council Chambers the Englewood Civic Center, Chair Brick presiding.

Present: Bleile, Townley Knoth, Roth, Welker, Kinton, Freemire (alternate), Brick

Absent: King (excused), Fish (excused)

Staff: Alan White, Director of Community Development
Chris Neubecker, Senior Planner
Nancy Reid, Assistant City Attorney



II. APPROVAL OF MINUTES

September 17, 2013

Knoth moved:

Roth seconded: TO APPROVE THE September 17, 2013 MINUTES

Chair Brick asked if there were any modifications or corrections.

AYES: Bleile, Knoth, Roth, Kinton, Brick

NAYS: none

ABSTAIN: Townley, Welker

ABSENT: King, Fish

Motion carried.



III. STUDY SESSION

Case #2013-04 Home Occupations

Chair Brick and Mr. Knoth stated for the record that they live in the R1A Zone District but that it will not affect their objectivity.



Motion to Open Public Hearing

Roth moved;

Welker seconded to open Public Hearing for Case #2013-04 Home Occupations

AYES: Bleile, Townley, Knoth, Roth, Welker, Kinton, Brick
NAYS: none
ABSTAIN: none
ABSENT: King, Fish

Chris Neubecker, Senior Planner, was sworn in. Proof of Publication was provided for Public Hearing.

Mr. Neubecker gave a summary of the need for the proposed changes, which were to allow home occupations in R-1-A zones, but to limit potential negative impacts. Some of the issues that have not yet been agreed upon by the Commission include commercial vehicles and on-site sales. As proposed, no customers, vendors or clients would be allowed at home occupations in R-1-A. Also, no exterior signs would be allowed in R-1-A.



Doug Cohn, 3051 S South Marion, was sworn in.

Motion to Close Public Hearing

Knoth moved;
Townley second

AYES: Bleile, Townley, Knoth, Roth, Welker, Kinton, Brick
NAYS: none
ABSTAIN: none
ABSENT: King, Fish



Motion: Case #2013-04 Home Occupations Favorable recommendation of the request as written in the staff report.

Welker moved
Knoth seconded

Discussion



Mr. Welker made the following friendly amendment. Mr. Knoth accepted.

Section 1 e. (1) shall read:

“No assistants or employees that are not residents of the principal dwelling unit shall work at the residence.”

Ms. Reid advised that staff will refine the wording of Section 1 e. (1) if necessary.
Vote on original motion with friendly amendment

AYES: Bleile, Townley, Knoth, Welker, Kinton

NAYS: Brick, Roth
ABSTAIN: none
ABSENT: King, Fish

Motion passes 5-2

Mr. Welker moved to delete section 1 h. (1)
Mr. Knoth seconded

"No customers, vendors, or clients shall be allowed at the site of the home occupation in the R-1-A district."

Discussion



AYES: Bleile, Townley, Knoth, Welker, Kinton, Roth
NAYS: Brick
ABSTAIN: None
ABSENT: King, Fish

6-1 vote passes.



IV. PUBLIC FORUM

Dr. Robert Farris was sworn in. He came in after the public hearing and wanted to ask questions about entertaining clients at his home. Mr. Neubecker provided a business card and suggested he contact staff since the public hearing was closed on Home Occupations.



V. ATTORNEY'S CHOICE

None



VI. STAFF'S CHOICE

Mr. Neubecker stated that he is still pursuing an area to study and commission field trip with regard to pedestrian activity on main thoroughfares.



VII. COMMISSIONER'S CHOICE

The meeting adjourned at 8:00 p.m.

Julie Bailey, Recording Secretary _____

CITY OF ENGLEWOOD PLANNING AND ZONING COMMISSION

**IN THE MATTER OF CASE #2013-04 ,)
FINDINGS OF FACT, CONCLUSIONS)
AND RECOMMENDATIONS RELATING) FINDINGS OF FACT AND
TO THE UNIFIED DEVELOPMENT CODE) CONCLUSIONS OF THE
HOME OCCUPATIONS) CITY PLANNING AND
) ZONING COMMISSION
)
)
)
)
)
)
**INITIATED BY:)
Community Development Department)
1000 Englewood Parkway)
Englewood, CO 80110)****

Commission Members Present: Bleile, Brick, Knoth, Roth, Welker, Townley, Kinton

Commission Members Absent: King, Fish

This matter was heard before the City Planning and Zoning Commission on October 8, 2013 in the City Council Chambers of the Englewood Civic Center.

Testimony was received from staff. The Commission received notice of Public Hearing, the Staff Report, and a copy of the proposed amendments to Title 16 Unified Development Code which were incorporated into and made a part of the record of the Public Hearing.

After considering the statements of the witness and reviewing the pertinent documents, the members of the City Planning and Zoning Commission made the following Findings and Conclusions.

FINDINGS OF FACT

1. **THAT** the Public Hearing on the Unified Development Code (UDC) Home Occupations were brought before the Planning Commission by the Department of Community Development, a department of the City of Englewood.
2. **THAT** notice of the Public Hearing was on the City of Englewood website from September 17, 2013 through October 8, 2013. Notice was published in the Englewood Herald September 27, 2013.
3. **THAT** the staff report was made part of the record.

4. **THAT** Home Occupations are currently allowed as an Accessory Use in the following zoning districts: R-1-B, R-1-C, R-2A, R-2B, MU-R-3-A and MU-R-3B.
5. **THAT** staff believes that home occupations could also be allowed in the R-1-A district (and any other district where residential uses are allowed) with certain restrictions to protect the residential character of neighborhoods.
6. **THAT** the R-1-A zoning district shall prohibit customers, sales and display of goods in the R-1-A district.
7. **THAT** no employee of the home occupation who is not a resident of the home shall perform work at the residence.
8. **THAT** exterior signage for the home occupation is prohibited.
9. **THAT**

CONCLUSIONS

1. **THAT** the Public Hearing on the Unified Development Code Home Occupations Amendment was brought before the Planning Commission by the Department of Community Development, a department of the City of Englewood.
2. **THAT** notice of the Public Hearing was on the City of Englewood website from September 17, 2013 through October 8, 2013.
3. **THAT** the amendments will enhance the City and is a great direction for the City to go.
4. **THAT** the zoning change conforms to Roadmap Englewood: 2003 Englewood Comprehensive Plan Objective 1-2: Actively engage in attracting new businesses to the City.
5. **THAT** the previously discussed revised amendments be forwarded to City Council.

DECISION

THEREFORE, it is the decision of the City Planning and Zoning Commission that Case #2013-04 Unified Development Code Home Occupations Amendments should be referred to the City Council with a favorable recommendation.

The decision was reached upon a vote on a motion made at the meeting of the City Planning and Zoning Commission on October 8, 2013, by Mr. Welker, seconded by Mr. Knoth, which motion states:

CASE#2013-04, AMENDMENTS TO TITLE 16: UNIFIED DEVELOPMENT CODE RELATED TO HOME OCCUPATIONS AS STATED BE RECOMMENDED FOR APPROVAL TO CITY COUNCIL WITH A FAVORABLE RECOMMENDATION WITH THE FOLLOWING CONDITIONS:

1. SECTION 1 H. (1) BE REMOVED:

"NO CUSTOMERS, VENDORS, OR CLIENTS SHALL BE ALLOWED AT THE SITE OF THE HOME OCCUPATION IN THE R-1-A DISTRICT."

AYES: Bleile, Townley, Knoth, Welker, Kinton, Roth
NAYS: Brick
ABSTAIN: None
ABSENT: King, Fish

Motion carried.

Welker moved;
Knoth seconded:

1. THAT SECTION 1 E. (1) SHALL READ:

"NO ASSISTANTS OR EMPLOYEES THAT ARE NOT RESIDENTS OF THE PRINCIPAL DWELLING UNIT SHALL WORK AT THE RESIDENCE."

AYES: Bleile, Townley, Knoth, Welker, Kinton
NAYS: Brick, Roth
ABSTAIN: None
ABSENT: King, Fish

These Findings and Conclusions are effective as of the meeting on October 8, 2013.

BY ORDER OF THE CITY PLANNING & ZONING COMMISSION

John Brick, Chair

Dear Mr. Neubecker,

I am in the process of establishing a small, home-based business which is built on my culinary talents celebrated by a host of individuals who appreciate my creative offerings. These food products will be produced and packaged in my home kitchen and sold directly to the end consumer. A Cottage Food Business is ideal for me for testing on-going production and marketing avenues. My plan is to eventually become an entrepreneur in the City of Englewood and grow my business into a nation-wide recognized company.

I will be in compliance with Senate Bill 12-048 amended in April 2013 by House Bill 13-1158. I'm also very responsible and will always manage my risks and returns.

My concern, however, is that upcoming discussions and actions regarding the City of Englewood Home Occupation Rules could jeopardize or limit wonderful opportunities to build businesses which can grow with increasing profitability in this marketplace.

My enthusiasm and affirmations of those who taste my products promise great success. The Cottage Food Business with the present parameters of the present legislation will kick start a stable income for my family leading to a full-time occupation.

I have read and understand what steps are needed to start a Cottage Food Business in Colorado. I look forward to positive action by the Englewood City Council on the subject of Home Occupation which can continue to provide favorable climates for home food producers.

When the benefits are so great and there is no harm done to existing businesses, it makes good sense to support a Home Occupation that nurtures a Cottage Food Business.

Thank you so much for work and your help.

Sincerely,

Abigail Berry

720.284.2226

BY AUTHORITY

ORDINANCE NO. _____
SERIES OF 2013 _____

COUNCIL BILL NO. 60
INTRODUCED BY COUNCIL
MEMBER _____

A BILL FOR

AN ORDINANCE AMENDING TITLE 16, CHAPTERS 5, 4-C(1)(a) THROUGH (g); 5-4-C(2) AND 11-2-B, OF THE ENGLEWOOD MUNICIPAL CODE 2000 PERTAINING TO HOME OCCUPATIONS AND ALLOWING THEM IN THE R-1-A ZONE DISTRICTS.

WHEREAS, the City has the authority to regulate the use of land from the “Local Government Land Use Control Enabling Act,” C.R.S. 29-20-101 et. seq. and the Englewood Home Rule Charter, Nopro vs. Town of Cherry Hills Village, 504 P.2d 344 (1972); and

WHEREAS, the City has the authority to regulate home occupations, Christiansen vs. City Council of City of Golden, 757 P.2d 1121 (1988) and Jones vs. Board of Adjustments, 204 P.2d 560 (1949); and

WHEREAS, the City has adopted ordinances under its police power regulating the use of signs and creating a comprehensive system of sign standards to provide a balance between the right of businesses to identify themselves, the protection of the uses permitted and compatibility with the surrounding area; and

WHEREAS, restrictions on commercial speech are constitutional per Central Hudson Gas and Electric vs. P.S.C., 447 U.S. 557 (1980); and Board of Trustees vs. Fox, 492 U.S. 469 (1989), including prohibiting signs entirely; and

WHEREAS, the Planning and Zoning Commission found window signs for home occupations should be prohibited in R-1-A zone districts to protect the special character and exclusivity of the R-1-A zone district; and

WHEREAS, the Planning and Zoning Commission found Home Occupations should be allowed in accessory structures, such as garages because they are fully enclosed and not visible from the outside, just as if they were inside the principal structure; and

WHEREAS, the Planning and Zoning Commission added to the list of prohibited uses; food preparation, manufacture of alcohol, and landscaping industries because these would:

- be more likely to have impacts on the surrounding area
- likely have too much impact on residential neighborhoods, and change the character of the area;
- have impacts that are more akin to commercial and industrial zones, that people don't want to see in residential zones.

WHEREAS, the Planning and Zoning Commission recommended removing the limitation of only one (1) home occupation per dwelling unit because there may be several members of a household each operating a business; and

WHEREAS, Home Occupations, as defined by the Unified Development Code and the Planning and Zoning Commission recommend changes will require registration as such while a home office, maintained for the convenience of the occupant and not for the purpose of a home occupation, will not be required to register as a home occupation; and

WHEREAS, enforcement has been identified as problematic by the Police Department and the Prosecutor due to a lack of distinction between a home office and a home occupation; and

WHEREAS, the Planning and Zoning Commission felt further defining a home office and a home occupation was unnecessary; and

WHEREAS, the Planning and Zoning Commission recommended deleting the word "incidental" in favor of the word "secondary" in the introductory paragraph because the structure is still primarily a residence.

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

Section 1. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 16, Chapter 5, Section 4, Subsection(C)(1)(a) entitled "*Home Occupation*" of the Englewood Municipal Code 2000, to read as follows:

[EDITORS NOTE: 16-5-4(A) and (B) contain no change and are therefore not included here]

16-5-4-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~~ which are secondary 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-A, R-1-B, R-1-C, R-2-A, and R-2-B, MU-R-3-A, MU-R-3-B, MU-R-3-C, M-1, M-2, MO-2, and TSA. ~~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, in a PUD that allows residential uses, or in any residential dwelling unit otherwise approved by the City) provided the home occupations complies with all requirements of residential district home occupations herein.

Section 2. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 16, Chapter 5, Section 4, Subsections(C)(1)(b) through (g) entitled "*Home Occupation*" of the Englewood Municipal Code 2000, to read as follows:

- b. *Where Allowed on Site.* The home occupation shall be operated entirely within the dwelling unit or within an accessory structure, and only by the person or persons maintaining a dwelling unit therein in the residential use. 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 prior to the start of operations.
- 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 work -employed in at the home occupation residence/dwelling unit.
 - (2) The hours and manner of such uses and the ~~noise-~~ impacts created thereby shall not interfere with the peace, quiet, or dignity of the neighborhood and adjoining properties which creates a nuisance under Title 15 of this Code.
 - (3) Incidental storage shall be allowed for items made on the premises and/or sold off the premises consistent with this Section. All storage shall be indoors, including all materials, equipment, inventory and supplies.
 - (4) The home occupation, including storage of materials, equipment, inventory, and/or supplies, shall not utilize more than three hundred (300) square feet of indoor space; 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.~~ Only one exterior sign, up to a maximum of one (1) square foot in area, shall be allowed. The sign shall be affixed to the building, and shall be unlighted and unanimated. A Sign Permit shall be required.

(6) No window displays shall be allowed and no sample commodities shall be displayed outside the dwelling.

f. *Prohibited Uses.* In no event shall any home occupation include the following business or commercial activities (except for the administrative or clerical functions related to these businesses, such as bookkeeping, marketing, and customer phone calls):

- (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 or food preparation.
- (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) Medical Marijuana Optional Premises Cultivation Operation.
- (14) Manufacture of wine, distilled spirits, or malt beverages.
- (15) Landscaping supplies, installation, maintenance or repair.

g. Additional Restrictions in the R-1-A District:

Within the R-1-A District, the following additional restriction shall apply for Home Occupations.

- (1) No exterior signage shall be allowed in the R-1-A District.

Section 3. The City Council of the City of Englewood, Colorado hereby makes no amendments to Title 16, Chapter 5, Section 4, Subsection(C)(2) entitled "*Parking Area*" through Subsection D(2) of the Englewood Municipal Code 2000, to read as follows:

2. Parking Area.

- a. *Parking Area, (R-2-B District Only).* When an R-2-B district abuts or is adjacent to a MU-B-2 district, the parking area must be screened from the residential portion of the lot by a six foot (6') opaque fence. Side yard fences must also be provided to screen adjacent property. These fences shall also be six feet (6') in height except that, within ten feet (10') of the rear property line, the fences cannot exceed thirty inches (30") in height or be less than fifty percent (50%) open.

- (1) The parking area shall not have a grass surface.
- (2) Parking stops or other devices allowing snowfall maintenance must be placed in the parking area to prevent damage to the fence by vehicles.
- (3) Provisions must be made for the collection of trash as per City ordinance.
- (4) The minimum width of the parking area shall be fifty feet (50').

- b. *Parking Area, Surface (TSA District Only).* Surface parking areas, noncommercial and accessory to a principal use, are allowed subject to the following additional conditions:

- (1) General. Such surface parking area shall be maintained as long as the principal permitted use is maintained, or until alternative parking is provided for such principal use.

(2) Location.

- (a) An accessory surface parking area may be located within six hundred feet (600') of the lot containing the principal use, either within the TSA district or within a zone district that permits noncommercial parking lots, subject to a City-approved alternative parking plan and pursuant to the Station Area Standards and Guidelines, as applicable.

- c. *Remote Parking Areas.* Pursuant to Section 16-6-4 EMC, required parking may be provided as an accessory use within four hundred feet (400') of the principal use, either within the same district or within a district that permits noncommercial parking lots. Such parking lots must be maintained as long as the principal permitted use is maintained, or alternate parking provided. Approval of an alternative parking plan is required (administrative process), pursuant to Section 16-6-4.D EMC. Such lots shall be paved, shall require a building permit, and shall be subject to the landscaping requirements of Section 16-6-7.M EMC.

3. Satellite Dish Antenna.

- a. *Small Satellite Dish Antennas.* Satellite dish antennas of one (1) meter or less in diameter are permitted accessory uses in all residential and nonresidential zoning districts. Such dishes shall not be located within the public right-of-way.
- b. *Large Satellite Dish Antennas.*
 - (1) Satellite dish antennas measuring one (1) meter or more are permitted accessory uses in all zoning districts. Any roof-mounted dishes shall submit an engineer's certificate to the City. Such dishes shall not be located within the public right-of-way.
 - (2) As applied only to large satellite dish antennas accessory to a principal residential use, to the maximum extent feasible, but only where there is no substantial impairment to acceptable signal quality, such antennas shall:
 - (a) Be located in the rear yard of the residential use; and
 - (b) Be screened from view from adjacent public rights-of-way; and
 - (c) Be of a color harmonious with their surroundings. There shall be no advertising in words or pictures, other than the manufacturer's name in small letters.
- 4. *Service Unit or Facility.* Service units or facilities shall be allowed as accessory uses in the MU-R-3-B district. Such uses include, but are not limited to, barber or beauty shops, gift shops, coffee shops, and dining facilities for the convenience of the tenants. Such uses shall comply with underlying zone district requirements, including the dimensional requirements set forth in Section 16-6-1 EMC.
- 5. *Swimming Pool.* Swimming pools are allowed as accessory uses in all districts. See Title 8 EMC.
- 6. *Wholesale Sales and Distribution.* Wholesale sales and distribution shall be allowed as an accessory use in MU-B-1 and MU-B-2 districts provided the principal use maintains an active retail license and is open to the public for retail trade.

D. *Prohibited Accessory Uses.*

- 1. *Prohibited in All Zoning Districts.* The following activities shall not be regarded as accessory to a principal use on any site and are prohibited in all zoning districts:
 - a. *Use of Travel Trailer or Recreational Vehicle (RV) as a Residence.* The use of a travel trailer as a residence, permanent or temporary, with the exception of a trailer approved as a temporary use for security under Section 16-5-5 EMC, shall be prohibited in all zoning districts.
 - b. *Use of Motor Vehicle or Trailer for Sales, Service, Storage, or Other Business.* The use of any motor vehicle, trailer, mini-mobile storage container, or shipping container as a structure in which, out of which, or from which any goods are sold or stored, any services performed, or other businesses conducted, shall be prohibited in all zoning districts. However, this subsection shall not prohibit the following:

- (1) The sale of goods or merchandise at a City-approved or sponsored event; or
- (2) Use of a motor vehicle, trailer, or shipping or storage container in connection with an approved recycling operation; or
- (3) Use of a trailer or shipping or storage container in conjunction with construction authorized by a valid building permit; or
- (4) Use of a trailer, shipping, or storage container for the temporary loading and unloading of goods, provided that no individual trailer or container is in place longer than forty-eight (48) hours.

2. *Prohibited in Residential Zoning Districts.* The following activities shall not be regarded as accessory to a residential principal use and are prohibited in all residential (R) districts:

a. *Automotive Repair.* Automotive repair, including engine, body, or other repair or repainting of more than one (1) vehicle at any one time owned by a person not residing at that address, regardless of whether compensation was paid for the service.

b. *Outdoor Storage of Inoperative Vehicles.* The outdoor storage of inoperable vehicles shall comply with Title 15 EMC.

c. *Parking of Commercial Vehicles.*

- (1) No commercial vehicle shall be stored on public property or in the public right-of-way.

[EDITORS NOTE: Parking on private property issues were passed by initiative Ballot Question 2D on November 1, 2011 and can only be revised, repealed, or amended by electoral vote. (Englewood Home Rule Charter Article VI, Section 48.)

Section 4. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 16, Chapter 11, Section 2, Subsection B, entitled “*Definition of Words, Terms, and Phrases*” of the Englewood Municipal Code 2000, to read as follows:

Home Occupation: Any use conducted entirely within a dwelling or accessory structure and carried on by the occupants thereof, which is clearly ~~incidental and~~ secondary to the primary use of the dwelling for dwelling purposes and does not change the character thereof. Such uses must meet all conditions and requirements for the particular zone in which such use is located.

[EDITORS NOTE: The remaining definitions contain no changes and are therefore not included here]

Section 3. 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 4. 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 5. 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 6. 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 7. Penalty. The Penalty Provision of Section 1-4-1 EMC shall apply to each and every violation of this Ordinance.

Introduced, read in full, and passed on first reading on the 18th day of November, 2013.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 22nd day of November, 2013.

Published as a Bill for an Ordinance on the City's official website beginning on the 20th day of November, 2013 for thirty (30) days.

Randy P. Penn, 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 a Bill for an Ordinance, introduced, read in full, and passed on first reading on the 18th day of November, 2013.

Loucrishia A. Ellis



MEMORANDUM

TO: Mayor Penn
City Council Members

THRU: Gary Sears, City Manager
Dan Brotzman, City Attorney

FROM: Lou Ellis, City Clerk

DATE: October 9, 2013

REGARDING: Council Request 13-171 – Ballot Question Impact: Recreational Marijuana

Council adopted Ordinance No. 15, Series of 2013 – an Ordinance enacting Title 7, Chapter 6D, Section 12, Subsection 2, of the Englewood Municipal Code 2000, defining recreational marijuana cultivation facilities, recreational marijuana product manufacturing facilities, recreational marijuana testing facilities, recreational retail marijuana stores; and prohibiting these businesses.

Council noted Englewood's Home Rule Authority and the provisions under State Statute to exercise police powers to protect the health, safety and welfare of the community and its residents. The Ordinance notes the voters of Colorado passed the Constitutional Amendment concerning medical marijuana and the regulations as adopted by the City. The Ordinance goes on to articulate that Amendment 64 approved provisions for allowing the City of Englewood to prohibit recreational marijuana retail stores, cultivation facilities, product manufacturing facilities, and testing facilities. The Ordinance specifically notes that nothing is to be construed to limit any privileges or rights of medical marijuana patient, medical marijuana primary caregiver or licensed entity, nor does it permit a medical marijuana center to distribute medical marijuana to a person who is not a medical marijuana patient or operate on the same premises as a recreational retail marijuana store. The Ordinance does not restrict personal use of marijuana as allowed under the Colorado Constitution. After defining the various recreational marijuana establishments paragraph C establishes the prohibition for Recreational Marijuana establishments in Englewood.

After banning recreational marijuana establishments as permitted under Amendment 64, Council adopted Ordinance No. 17, Series of 2013 – an Ordinance submitting to a vote of the registered electors of the City of Englewood at the next scheduled municipal election of November 5, 2013, an advisory question to ban the retail sale of recreational marijuana, ban recreational marijuana cultivation facilities, ban recreational marijuana manufacturing facilities, and ban recreational marijuana testing facilities.

Ordinance No. 17, Series of 2013 submitted to the electors of the City of Englewood an advisory question which reads as follows:

Question No.

Shall the Englewood Municipal Code of the City of Englewood, Colorado ban the retail sale of recreational marijuana, ban recreational marijuana cultivation facilities, ban recreational marijuana manufacturing facilities, and ban recreational marijuana testing facilities; while not restricting personal use and growth of marijuana as allowed under the Colorado Constitution, nor shall it affect Englewood's currently licensed medical marijuana businesses, primary care-givers, patients, and Code provisions relating thereto?

_____ Yes _____ No

After the election Council should consider the votes concerning the advisory question. If it is determined that the voters will is to ban retail recreational marijuana establishments the Council may simply rely upon the prohibition established by Ordinance No. 15, Series of 2013. If Council determines it is the will of the voters to allow retail recreational marijuana establishments, regulations will be developed by staff and reviewed by the Local Liquor and Medical Marijuana Licensing Authority. Zoning will be drafted by staff and recommended to the Planning and Zoning Commission regarding spacing and proper zoning categories for the various recreational marijuana establishments. Staff will craft for Council's consideration a Tabor question concerning a tax upon the sale of recreational marijuana which shall be forwarded to the Budget Advisory Committee.