

**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: November 10, 2009**

**AGENDA TITLE:** Consideration of an emergency ordinance adopting interim regulations through March 31, 2010, related to the opening of new medical marijuana businesses.

**PRESENTER/S:**

Jane S. Brautigam, City Manager  
Paul J. Fetherston, Deputy City Manager  
David Driskell, Executive Director of Community Planning and Sustainability  
Maureen Rait, Executive Director of Public Works  
Kathy Haddock, Senior Assistant City Attorney  
Charles Ferro, Acting Land Use Review Manager  
Brian Holmes, Zoning Administrator

**EXECUTIVE SUMMARY:**

As noted in the City Council Weekly Information Packet (WIP) dated October 30, 2009, the issues surrounding medical marijuana have become more relevant since the approval of Amendment 20 in November 2000.

Since February 2009, there have been 38<sup>1</sup> medical marijuana dispensaries that have received zoning approval to obtain a business license in the city. Additionally, the city's Building Department has seen an increase in applications for permits to improve buildings (electrical and otherwise) for the purpose of cultivating medical marijuana (refer to **Attachment A**). Similarly, staff has been receiving several inquiries a day over the past several weeks regarding suitable locations in the city for growing, dispensing, and processing medical marijuana. At present, there are no regulations that specifically address how medical marijuana may be grown, dispensed, or processed within the city.

The purpose of this memorandum is to provide City Council with options for the regulation of medical marijuana within the city. Specifically, staff would like to receive feedback regarding:

- a. Whether the council would like to allow or prohibit such uses within the city. (The state constitution allows for personal possession and cultivation of medical uses but does not explicitly condone or prohibit larger scale cultivation and/or

---

<sup>1</sup> As of November 6, 2009, there are 15 additional business license applications pending for review.

dispensing).

- b. If commercial medical marijuana uses are to be allowed, whether the council feels that regulations are needed to address issues related to the location and operation of such uses.
- c. Whether the council should impose a moratorium on any additional permits related to commercial growing, dispensing, and processing of medical marijuana within the city while regulations are prepared.
- d. Whether the council should adopted interim land use regulations temporarily suspending the opening of new business related to commercial growing, dispensing, and processing of medical marijuana near schools and residential areas; specifying city zone districts where medical marijuana businesses may be located; and establishing limits on the concentration of such businesses in retail areas to ensure a diversity of business and use types in the city's commercial business districts.
- e. If a moratorium or interim regulations are appropriate, what should the goals of the staff work plan be during the moratorium or interim period?

#### **STAFF RECOMMENDATION:**

##### **Suggested Motion Language:**

Staff requests council consideration of this matter and action in the form of the following motion:

Motion to approve an emergency ordinance adopting interim regulations through March 31, 2010, regarding the opening of new medical marijuana businesses.

#### **COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS:**

- **Economic:** Based on the current definitions of city code, medical marijuana is subject to the city's sales tax. Each business that collects sales tax is required by the code to obtain a city business license. However, the business license is a reporting document rather than the type of license by which the city can approve or deny the license based on whether the business meets certain criteria.

Although the city does not have records for a long enough period of time to provide real averages, reporting dispensaries are paying about \$2,400-\$3,000 per month of sales tax.

- **Environmental:** While there are no real environmental concerns regarding retail dispensaries, large-scale cultivation of medical marijuana has generated some environmental concerns related to the discharge of fertilizer into the city's sanitary sewer systems.

- Social: Medical marijuana has a high street value and remains illegal under federal law. This has generated community concern that dispensaries can attract a criminal element. Since there are no regulations requiring security measures for dispensaries, this has also raised concerns that some operators carry firearms, both legally and illegally.

Additionally, there has been community concern generated over the fact that dispensaries may currently operate without regard to the location of schools, daycare centers, houses of worship, parks, or residential areas.

**OTHER IMPACTS:**

- Staff time: The regulation of medical marijuana was not originally considered as a part of the 2010 Community Planning and Sustainability work program. Additional staff time will be required to process regulations as a part of the 2010 work program.

**BOARD AND COMMISSION FEEDBACK:**

Refer to **Attachment B** for minutes from the November 5, 2000 Planning Board meeting.

**PUBLIC FEEDBACK:**

While staff has not received any feedback in writing from the public, staff has received several phone calls and inquiries at the Planning and Development Services Center expressing concern regarding the regulation of the commercial growing, dispensing, and processing of medical marijuana. Concerns are primarily related to the number of dispensaries within the city, location near neighborhoods, schools, houses of worship, parks and the overall public safety issues associated with the operation of commercial dispensaries.

The Planning Board meeting on November 5, 2009 was extremely well attended. There was no one who spoke in favor of a ban on medical marijuana dispensaries, although a few people voiced support of a temporary moratorium. The vast majority of the public spoke in opposition to the moratorium or other limitations that might restrict patient access to medical marijuana dispensaries.

**BACKGROUND:**

Please refer to **Attachment C** for information related to how other local governments in the state are responding to the issues surrounding medical marijuana.

For additional background information regarding the Colorado Medical Marijuana Amendment, associated state processes as well as information regarding current local and state issues related to medical marijuana, please see the October 30, 2009 City Council Weekly Information Packet.

**ANALYSIS:**

Staff has identified several options for future potential regulation of medical marijuana within the city:

a. Prohibition:

Based on input from the City Attorney's office, it is possible to amend the existing sales tax license process to require business owners to certify that a business is legal at the federal, state and local level. Since marijuana (whether possessed, sold, distributed, cultivated, or processed for medicinal purposes or not) is still illegal at the federal level, this measure would effectively prohibit the operation of commercial dispensaries or growers in Boulder under federal law. It would not, however, affect the personal production, possession and use of medical marijuana as allowed under the state's constitution.

b. Moratorium:

A moratorium would prohibit new business from growing, dispensing, and or processing medical marijuana within the city until March 31, 2010. The purpose of the moratorium would be to allow Planning Board and City Council time to direct staff to draft regulations related to commercial medical marijuana operations in the city and bring them back for public review and council and board approval.

c. Interim Regulations:

Interim land use regulations as recommended by the Planning Board (refer to **Attachment D**), would temporarily suspend the opening of new business related to commercial growing, dispensing, and processing of medical marijuana near schools and residential areas until March 31, 2009. Additionally, the regulations would specify city zone districts where medical marijuana businesses may be located in the interim and would limit the concentration of such businesses in retail areas to ensure a diversity of business and use types in the city's commercial business districts.

The purpose of the interim regulations would be to establish temporary separation and location requirements for new businesses related to medical marijuana to operate under rather than enacting a general moratorium. The interim regulations would also allow Planning Board and City Council time to direct staff to draft comprehensive regulations related to commercial medical marijuana operations in the city (addressing not only location issues but also operating characteristics and licensing requirements) and bring them back for public review and council and board approval.

c. No Action:

If no action is taken, the commercial growing, dispensing, and processing of medical marijuana within the city will remain unregulated.

**STAFF RECOMMENDATION:**

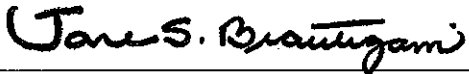
Staff recommends the approval of interim regulations expiring on March 31, 2009 as recommended by Planning Board on November 5, 2009 (refer to **Attachment D**).

Should council wish to pursue a moratorium, staff recommends the approval of an initial moratorium expiring on March 31, 2009 as indicated in **Attachment E**.

As a part of the work plan, staff recommends:

- a. Research and consideration of the impacts of commercial operations which grow, dispense, and process medical marijuana.
- b. Research and formulation of draft regulations for consideration by Planning Board and City Council that respond to the identified impacts of location; general operational characteristics; separation requirements from schools, places of worship, and parks; hours of operation; security standards; review processes; business licensing processes; and enforcement and building inspection considerations for commercial medical marijuana establishments.
- c. Continued monitoring of the state's actions and policies regarding the regulation of medical marijuana as well as how other municipalities both locally and nationally are addressing and regulating medical marijuana establishments.

Approved By:



Jane S. Brautigam,  
City Manager

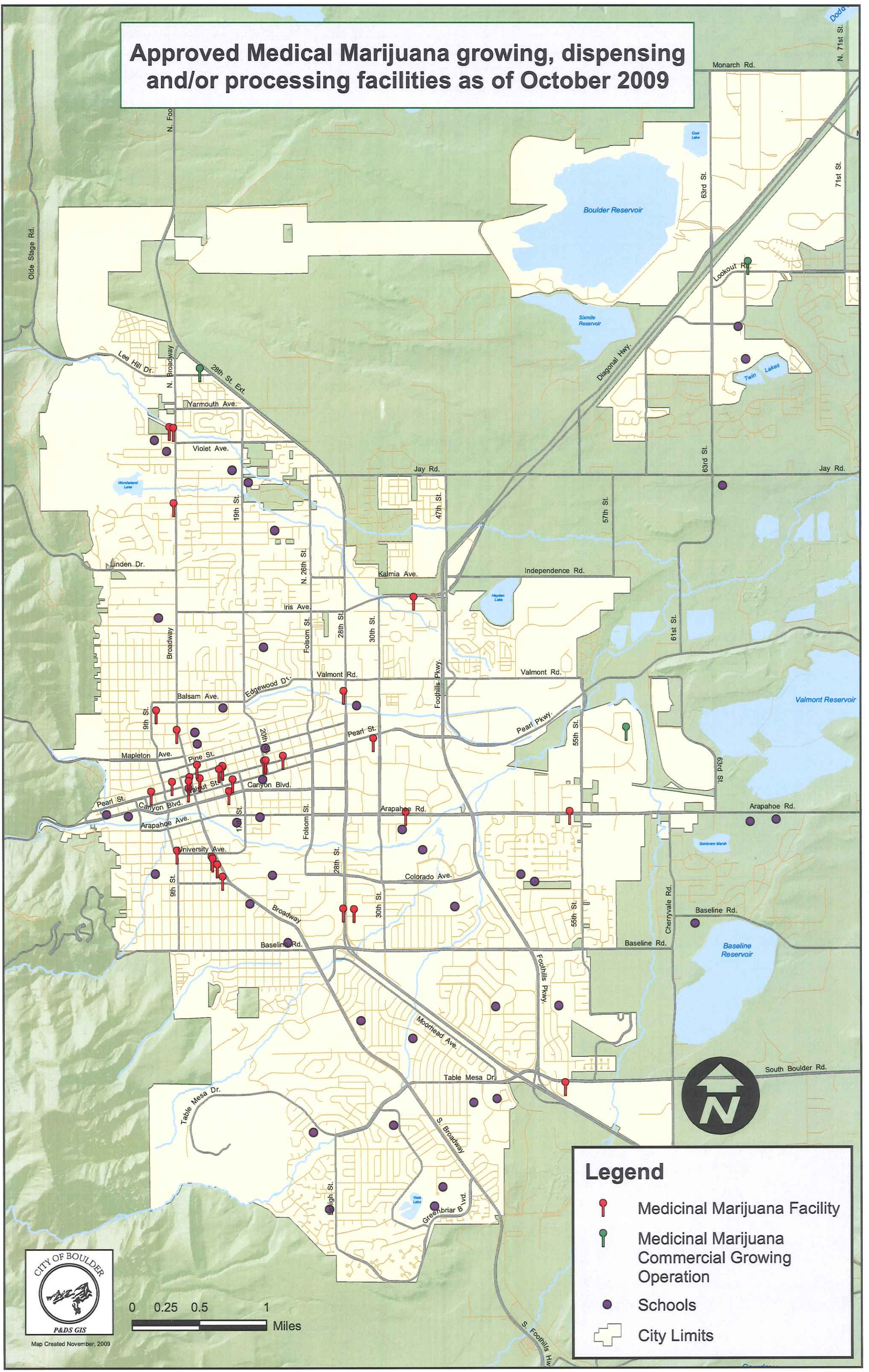
**Attachments:**

- A: Map of medical marijuana dispensaries / commercial grow operations that have received zoning approval to obtain a business license in the city.
- B: Minutes from the November 5, 2000 Planning Board Meeting.
- C: Information related to how other local governments in the state are responding to issues surrounding medical marijuana
- D: Ordinance No. \_\_\_\_\_
- E: Ordinance No. \_\_\_\_\_

## Medical Marijuana

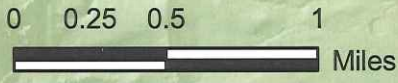
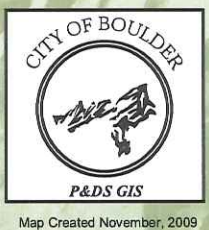
Business Name	Location	Date Applied	Decision Date	Decision	Zone
1 New Options Wellness LLC	2855 Aurora Ave #40	3/24/09	March 2009	Approved	RH4
2 Boulder Alternative Medicine	1325 Broadway, #213	5/19/09	5/26/09	Approved	BMS
3 Cannibis Healing Arts	1580 Canyon	6/18/09	8/14/2009	Approved	DT-5
4 Therapeutic Compassion Cent	1501 Lee Hill, #22	7/13/09	8/17/2009	Approved	IS-1
5 THC Ministry of Boulder	1221 Pearl St, #10	8/14/09	8/18/2009	Approved	DT-4
6 Mountain Medicine Group	1320 Pearl St, Suite 240	8/28/09	8/31/2009	Approved	DT-4
7 Natural Alternate Medicine LLC	5370 Manhattan Circle, Suite 104	8/21/09	10/19/2009	Approved	BT-1
8 Greenleaf Pharmacy	1644 Walnut Ave	9/9/09	9/11/2009	Approved	DT-2
9 JTR Caregivers LLC	2714 28th Street	9/17/09	9/23/2009	Approved	BC-2
10 BMMC Services	2206 Pearl Street	9/9/09	10/13/2009	Approved	MU-3
11 Vape Therapeutics	1327 Spruce, Suite 300	9/11/09	9/14/2009	Approved	DT-3
12 Healing House LLC	1303 1/2 Broadway	9/11/09	10/6/2009	Approved	BMS
13 Boulder MMJ	1909 Broadway, 100LL	9/17/09	9/23/2009	Approved	DT-5
14 The Medication Company	4483 Broadway	9/25/09	10/13/2009	Approved	MU-2
15 The Greenest Green	2034 Pearl Street, Unit 102	9/25/09	10/13/2009	Approved	MU-3
16 High Grade Alternatives	3370 Arapahoe Ave	9/29/09	10/1/2009	Approved	BR-1
17 Flower of Life Healing Arts Inc	3970 Broadway, Suite 201	10/7/09	10/14/2009	Approved	RL-2
18 Colorado Care and Wellness	1000 Alpine	10/7/09	10/28/2009	Approved	BT-1
19 Boulder Care and Wellness	1000 Alpine	10/7/09	10/28/2009	Approved	BT-1
20 Boulder Wellness Center	5420 Arapahoe Ave, Unit F	10/7/09	10/14/2009	Approved	BC-1
21 Trill Alternative	2031 16th Street	10/7/09	10/14/2009	Approved	DT-2
22 Boulder Rx	1035 Pearl St, 3rd Floor	10/9/09	10/13/2009	Approved	DT-2
23 Boulder Kind Care, LLC	2031 16th Street	10/9/09	10/14/2009	Approved	DT-2
24 The Bud	2500 Broadway, Suite 100	10/9/09	10/14/2009	Approved	BC-2
25 Ohana PC	918 University Ave	10/9/09	10/19/2009	Approved	RMX-1
26 Boulder's Unique Dispensary	900 28th Street	10/14/09	10/15/2009	Approved	RH-3
27 K&K	1212 13th Street	10/13/09	10/15/2009	Approved	BMS
28 MediPharm	800 Pearl Street	10/16/09	10/27/2009	Approved	BMS
29 Boulder Medical Marijuana Dis	2111 30th Street, Unit A	10/16/09	10/19/2009	Approved	BR-1
30 Evolution Medicine Services	4476 N Broadway	10/16/09	10/28/2009	Approved	MU-2
31 Trill Alternative	2043 16th Street	10/19/09	10/22/2009	Approved	DT-2
32 Top Shelf Alternatives, LLC	1327 Spruce, Suite 301	10/20/09	10/22/2009	Approved	DT-3
33 Kind Care of Boulder	2043 16th Street	10/20/2009	10/22/2009	Approved	DT-2
34 Trill Alternative	1537 Pearl St	10/23/2009	10/28/2009	Approved	DT-4
35 Indigenous Medicines	1200 Pearl St, Suite 35	10/23/2009	10/28/2009	Approved	DT-4
36 Boulder Rx	6560 Odell Place	10/23/2009	10/28/2009	Approved	IG
37 Crème de la chron	2450 Central Ave	10/23/2009	10/28/2009	Approved	IG
38 DrReefer.com	1121 Broadway G-1	10/27/2009	10/30/2009	Approved	BMS

# Approved Medical Marijuana growing, dispensing and/or processing facilities as of October 2009



**Legend**

- Medicinal Marijuana Facility
- Medicinal Marijuana Commercial Growing Operation
- Schools
- City Limits



Map Created November, 2009

**DRAFT**  
**CITY OF BOULDER**  
**PLANNING BOARD ACTION MINUTES**  
**November 5, 2009**  
**1777 Broadway, Council Chambers**

A permanent set of these minutes and a tape recording (maintained for a period of seven years) are retained in Central Records (telephone: 303-441-3043). Minutes and streaming audio are also available on the web at: <http://www.bouldercolorado.gov/>

**PLANNING BOARD MEMBERS PRESENT:**

KC Becker  
Bill Holicky  
Elise Jones  
Andrew Shoemaker  
Adrian Sopher, Chair  
Mary Young

**PLANNING BOARD MEMBERS ABSENT:**

Willa Johnson

**STAFF PRESENT:**

Steve Buckbee, Civil Engineer II  
David Driskell, Executive Director of Community Planning and Sustainability  
Charles Ferro, Acting Land Use Review Manager  
David Gehr, Assistant City Attorney  
Kathy Haddock, Senior Assistant City Attorney  
Brian Holmes, Zoning Administrator  
Jessica Vaughn, Planner I  
Paula Weber, Administrative Specialist III

**1. CALL TO ORDER**

Chair, **A. Sopher**, declared a quorum at 6:02 p.m. and the following business was conducted.

**2. APPROVAL OF MINUTES**

No minutes were scheduled for approval.

**3. PUBLIC PARTICIPATION**

**Elizabeth Allen** spoke to the board about Valmont Bike Park and her concerns about amplified noise.

**Mike Randall** spoke to the board about 75 Bellevue.

**4. DISCUSSION OF DISPOSITIONS, PLANNING BOARD CALL-UPS**

Call-up items:

3153 and 3179 9<sup>th</sup> Street Minor Subdivision. This item was not called up.  
75 Bellevue Drive; Final Plat #TEC2009-00010. This item was not called up.  
Approval of Use Review for 1310 College Ave. LUR2009-00049. This item was not called up.

## **5. ACTION ITEMS**

### **A. Discussion and direction regarding potential regulatory changes regarding the growing, dispensing, and processing of medical marijuana.**

#### **Staff Presentation**

**C. Ferro** presented the item to the board.

#### **Public Hearing**

Elizabeth Allen, Boulder, spoke to the board in support of medical marijuana.

Rob Smoke, 2445 19<sup>th</sup> Street, spoke to the board in support of medical marijuana and legalization of marijuana.

Seth Brigham, 1580 7<sup>th</sup> Street Apt. A., spoke to the board about affordability of medical marijuana and in support of medical marijuana.

Alan Trenary 11484 W. 105<sup>th</sup> Way, Westminster, spoke to the board in support of medical marijuana. He said there is a need for regulation and commercial growing should not be allowed in private homes.

Erin Marcove, 4640 S. Utica St., spoke to the board in support of medical marijuana.

Jay Ross Epstein, 1325 Broadway (pooling time with Rachel Pryor) spoke to the board in support of medical marijuana. He asked the board to pass a six month moratorium and place a hold on all new applications.

Rachel Pryor, (pooled time with Jay Ross Epstein)

JP Stormer, 1325 Broadway St. #213, Longmont, spoke to the board in support of medical marijuana.

James Stott, P.O.Box 30, Lafayette, spoke to the board in support of medical marijuana.

Daniel Smith, 5932 Gunbarrel Ave. Unit F, spoke to the board in support of medical marijuana.

Laura Kriho, P.O. Box 19084, spoke to the board in support of medical marijuana. She asked the board not to place a moratorium right now.

Garrett Clark, 1135 13<sup>th</sup> St., spoke to the board in support of medical marijuana.

Gynn "Wolf" Wolfstar, RN, P.O. Box 462, Nederland, spoke to the board in support of medical marijuana.

Edward Bruder, 113 Eagle Valley Dr., spoke to the board in support of medical marijuana.

Billy Castorova, 1457 Denver Ave. Loveland, spoke to the board in support of medical marijuana. He does not want a moratorium to be placed on new businesses.

Ryan Hartman, G136 Habitat Dr. (pooled time with Russell Wise) spoke to the board in support of medical marijuana. He said some regulations are necessary in order to make this a respectable business.

Russell Wise, 2326 Goss St. (pooled time with Ryan Hartman).

Chris Norris, 1298 Aikins, spoke to the board in support of medical marijuana.

Sean Gosine, 1221 Pearl St. #15, spoke to the board in support of medical marijuana.

Vic Sicard, 4625 15<sup>th</sup> St., spoke to the board in support of medical marijuana. He said there is a need for regulation but asked the board to be careful in what they decide.

Nicholas Cokas, 597 Lehigh Cir. Erie, spoke to the board in support of medical marijuana.  
Dr. M.A. Guerreso P.C. 207 Sunrise Ln., spoke to the board in support of medical marijuana.  
Brooke Riggins, 2326 Goss St. (pooled time with Ariel Guerreso)  
Kathleen Chippi, P.O. 1794, spoke to the board in support of medial marijuana. She said marijuana is not lethal.  
Todd Siegel, 697 Walden Cir., spoke to the board in support of medical marijuana and did not support the moratorium.  
Pierre Werner, 1121 Broadway G-1, spoke to the board in support of medical marijuana.  
Richard Bookal, P.O. Box 2133, spoke to the board in support of medical marijuana.  
Adam Mahen, P.O. Box 4707, spoke to the board in support of medical marijuana.  
Lauren Davis, Denver, spoke to the board in support of medical marijuana.  
Michael Jacobs, 5 Bucknell Ct., spoke to the board in support of medical marijuana.  
K. Evan Rude, 310 Main St., spoke to the board in support of medical marijuana.  
Bob Walborn, P.O. Box 699, spoke to the board in support of medical marijuana and not in support of a moratorium.  
Jason Ellingson, 3055 30<sup>th</sup> St. 31, spoke in support of medical marijuana as a caregiver and patient. He said the moratorium will harm the industry.  
Michael Anderegg, 2635 Mapleton Ave., spoke to the board in support of medical marijuana. He said the moratorium will harm the industry.  
Ryan Anderson, P.O. Box 7423, spoke to the board in support of medical marijuana. He talked to the board about the different types of dispensaries. He said downtown is one of the best places to have a dispensary because of the high level of police presence.  
Timothy Tipton, Boulder, (pooled time with James Marks) spoke to the board in support of medical marijuana.  
James Marks, Boulder, (pooled time with Timothy Tipton).  
Chris Duffy, 720 S. 42<sup>nd</sup> St., spoke to the board in support of medical marijuana.  
Bruce Niederriter, 1107 12<sup>th</sup> St. #306, spoke to the board in support of medical marijuana.  
Jean Paul Matthews, 5443 Sugarloaf Rd., spoke to the board in support of medical marijuana.  
Penny Fagan, 1630 30<sup>th</sup> St. #494, spoke to the board in support of medical marijuana.  
Stephen Keenan, 3527 Spring Creek Pl., spoke to the board in support of medical marijuana.  
Rev. Jeremy DePinto, 1162 Cedar St. Broomfield, spoke to the board in support of medical marijuana.  
Larissa Mulder, P.O. Box 17925, spoke in support of medical marijuana.  
Travis Simpson, Denver, spoke in support of medical marijuana.  
Migel Ramos, P. O. Box, Boulder, CO, spoke to the board in support of medical marijuana.

### **Board Discussion**

**K. Becker** said the Planning Board is only one step in this process and she asked the public to provide comments to City Council for their consideration on what would help legitimize medical marijuana businesses.

**A. Sopher** said this is still a process and there will be no conclusion tonight. He asked the public to provide information on the business models that they are using.

**A. Shoemaker** asked dispensary owners or grow operation owners who are interested in having the city staff visit their facilities to let the city staff know.

**A. Sopher** would like a tour of the various business models that are out there.

**M. Young** said it would be helpful to know for the various business models what locations work best.

## **Prohibition**

**A. Sopher** straw polled the board whether they support prohibition.

The board did not support prohibition (6-0, **W. Johnson** absent).

## **Moratorium**

**A. Sopher** straw polled the board as to whether they support a full moratorium.

The board did not support a full moratorium (6-0, **W. Johnson** absent).

The board proposed a 1,000 foot separation from schools as part of an interim ordinance, matching state/federal guidelines for definition of “school” and measurement method.

The board proposed an interim ordinance to allow no more than (some quantity determined by staff) dispensaries within 1,000 square feet in the use-by-right retail use zones with no limitations related to “professional office MMD” uses. Prohibit “personal service MMD” uses.

The board proposed that growing operations meet the guidelines of the use referred to in the Land Use Code as greenhouse and plant nurseries.

- Prohibit “Crop Production” use as its definition refers to wholesaling of produce/product.
- Permit only “Green House or “Nursery” use categories.
- No commercial growing operations in residential zones.
- As an accessory use, allow only what is needed for personal medicinal uses to be grown in residential zones.

The board proposed that for accessory uses in residential zones no more plants would be allowed to be grown than are required for personal use under medial marijuana guidelines.

The board proposed no production businesses (“grow operations”) beyond support of personal medical marijuana use in the interim.

**E. Jones** said location is something that needs to be addressed in the interim and the rest of this can be addressed at a later date.

**A. Shoemaker** asked the board if there should be a concern about safety and whether the board should address these concerns in the interim.

**A. Shoemaker** asked if there are health department concerns for dispensaries that cook some of their products.

**D. Driskell** said that would be an issue for the County Health department.

**A. Shoemaker** asked about in the interim if the board is concerned about consumption on the premises. He asked if smoking on the premises changes the character of the dispensary.

**A. Sopher** said he is not sure the board can address this fairly in an interim measure. He thought this was a good thing to look at in terms of both the business models that are being brought fourth and how that might affect the zone and whether or not that business model might suit the particular zone character. Then the board can address it in another context at a future date.

**K. Becker** said it is something staff can add to the work plan.

**A. Shoemaker** asked if we need to worry about the sale of alcohol on the premises.

**K. Haddock** said it is covered in one way because the only way you can sell alcohol is with a liquor license, the only thing that could happen is that an existing liquor license establishment could have medical marijuana for sale.

**B. Holicky** said the state Liquor Board can revoke that liquor license. He said the establishment would have to qualify as a caregiver.

**K. Haddock** said she is not sure if you would automatically lose your liquor license. We definitely would need to look at it for the long term.

**E. Jones** said medical marijuana has a public good and there is a minimum amount of regulation that would be necessary in order to be sure that these are healthy businesses and everyone is safe.

**A. Shoemaker** said it has nothing to do with making it hard on people. Creating a licensing regime to the extent that we can do that will do far more in taking the lead in terms of promoting the eventual legalization of marijuana than taking a less regulatory approach. He suggested considering whether or not Boulder would be the first city in Colorado or perhaps in the nation to adopt a licensing regime for medical marijuana which would lead the nation. It is an entirely different approach. Some regulations make it more difficult for patients to get the cannabis but there are a lot of regulations that help the image and will further legitimize the cause. Signage issues while it is regulation could be good for the industry. He doesn't agree with less regulation is better, he thinks less regulation that harms the patient is better. He said we should think about how we can proactively help people.

**E. Jones** said she is referring to a lot of the things that are listed here that have a way of creating more limitations. She is not against exploring helping create a more legitimate business.

**A. Sopher** said he is not interested at all in having growers and dispensaries become larger businesses. He said we need to allow for multiple models of delivery of medical marijuana services to people. He does not want to push out people who are just doing small businesses here, small scale operations that are genuinely serving the community but doing it safely.

**B. Holicky** agreed with **A. Sopher**. He does not want to have the licensing be so much of a burden that it pushes people to larger financial models to pay for it but he does appreciate what **A. Shoemaker** is saying. This whole thing is caught in a "don't ask don't tell" and it shouldn't be, there was a vote of the people and we should do what we can to embrace that and there could be a change in the future that could make it more accessible. He would like to recommend to council that we should look at licensing.

**K. Becker** said we are not saying we know we want to do licensing we are saying we want council to consider it.

**K. Haddock** clarified that the board was talking about licensing in a way to make it safer and the patient ends up with a safer product and the patient knows what they are getting.

**A. Shoemaker** said we should legitimize and make transparent the use of medical marijuana if necessary taking the lead in the nation on the issue, focusing on patient safety and the ability to access and balancing that with public safety. We should also talk about the fact that this should be taxed, it should not be taxed differently than other items. If the city is going to set up a licensing program and further legitimize it, it should be taxed.

**A. Sopher** said we need to be careful about not pushing out smaller providers.

**K. Becker** would like the city to respond to the industry and what helps with their business.

### **SUMMARY OF KEY POINTS**

At the conclusion of the board's discussion, staff outlined what they heard to be they points related to interim regulations and direction for the work program toward development of longer term regulations.

## **INTERIM REGULATIONS:**

### **1) SEPARATION REQUIREMENT**

- Require that MMDs be located at least 1000' from schools.
- Use state / fed definition of "school" and measurement method.

### **2) SATURATION / DENSITY**

- No more than 3 medical marijuana establishments can be within 1000' radius of each other in zones that allow retail by-right.
- Prohibit "personal service MMD" uses.
- Allow "professional office MMD" uses.

### **3) COMMERCIAL / WHOLESALE GROW OPERATIONS**

- Prohibit "Crop Production" use as its definition refers to wholesaling of produce / product.
- Permit only "Green House or "Nursery" use categories.
- No commercial growing operations in residential zones.
- As an accessory use, allow only what is needed for personal medicinal uses to be grown in residential zones.

## **DIRECTION FOR WORK PROGRAM:**

### **GUIDING PRINCIPLES:**

- 1) Legitimize MMDs through licensing requirements (establish a "licensing regime").
- 2) Make MMDs safe, clean and accessible.
- 3) Protect patient safety.
- 4) Assure high quality product that is safe and predictable.
- 5) Promote successful small businesses – don't push out small providers.
- 6) MM should pay its own way in the city.
- 7) Minimize negative impacts on the community.

### **OPERATIONAL CHARACTERISTICS FOR DISPENSARIES:**

- Consider security measures similar to those of a pharmacy (safes and limited amounts of product stored on-site).
- Explore potential licensing requirements for MMDs.
- County Health Department Regulations for baking, tinctures, edibles, etc.
- Explore issues surrounding consumption of product on-site / indoor air quality.
- Research which business models are best suited for specific zone districts
- Explore additional separation requirements from establishments that sell or serve liquor (Is there a need for a liquor license for tincture involving grain alcohol extracts?).
- Explore all "traditional" land use regulations in Section F of the WIP.

- B. An Ordinance establishing additional tree protection standards, amending Chapter 8-2, B.R.C. 1981 creating an affirmative obligation of adjacent property owners to maintain street trees; amending Title 9, Land Use Code B.R.C. 1981 requirements for site review and the landscaping standards.**

**An Ordinance establishing requirements for a certified arborist license and other requirements related to the removing or maintaining and amending Chapter 6-6, “Protecting trees and plants”; and setting forth related details.**

The board continued this item to the November 19, 2009 Planning Board meeting.

**6. MATTERS FROM THE PLANNING BOARD, PLANNING DIRECTOR, AND CITY ATTORNEY**

**D. Driskell** notified the board that there will be Land Use Review Manager Presentations at the Nov 19 Planning Board meeting beginning at 5 pm. The regular meeting will begin at 6 pm. The Nov 19 meeting will be held at the West Senior Center.

**7. DEBRIEF/AGENDA CHECK**

**8. ADJOURNMENT**

The Planning Board adjourned the meeting at 11:15 p.m.

APPROVED BY

\_\_\_\_\_  
Board Chair

\_\_\_\_\_  
DATE

DRAFT

<b>Community</b>	<b>Moratorium?</b>	<b>Duration</b>	<b>Current actions</b>
<b>Arvada</b>	No. Council did not approve.	NA	Not allowed as it does not appear on permitted use chart.
<b>Breckenridge</b>	Yes. Now expired.	60 days	Following a moratorium, the town developed an ordinance that regulates the location and operation of medical marijuana dispensaries. Ordinance was adopted Oct. 7, 2009. Efforts to legalize marijuana have been approved by voters through a ballot initiative on 11/3/09.
<b>Broomfield</b>	No	NA	None. Considers current federal and local laws adequate in prohibiting medical marijuana.
<b>Colorado Springs</b>	No	NA	City Council issued directive that dispensaries are not permitted in any zoning district and enforcement actions are being taken against any existing dispensaries.
<b>Denver</b>	No	NA	Dispensaries regulated like a retail pharmacy use. No licensing requirements. Cultivation like any agricultural operation. Some council members are proposing stricter licensing requirements.
<b>Federal Heights</b>	Yes. Adopted mid-October.	120 days	Looking into regulations and licensing requirements for dispensaries.
<b>Fort Collins</b>	No	NA	Considers dispensaries retail use. Applicable departments meeting with City Manager to recommend a moratorium. Attorney's office looking into possible length of moratorium.
<b>Golden</b>	Yes. Adopted 10/8	180 days	Waiting on direction from City Council and possible state action.
<b>Lafayette</b>	Yes. Adopted 10/20	Valid until May 15, 2010	Preparing regulations that address possible locations for use, distance requirements, and felony background checks. Waiting for state action.
<b>Longmont</b>	Yes. Adopted 10/20, retroactive to 10/2.	90 days, may extend.	Before moratorium regulated as pharmacies. Looking into creating panel (6-7 members) composed of stakeholders, including local medical marijuana proponents, police, physicians, and opponents to discuss issues. Go to larger focus groups (10-15 participants) afterward.
<b>Louisville</b>	Yes. Adopted 10/20	Valid until May 15, 2010	Looking into regulations similar to liquor licenses. Clarifying definition of dispensaries and where they may be located. Waiting for state action.

<b>Northglenn</b>	No.	NA	Medical Marijuana Dispensaries illegal until adoption of new ordinance, which regulates location of the establishments through buffers and is not zone based. Process similar to liquor license with \$2,000 application fee. Involves background check and fingerprinting.
<b>Silverthorne</b>	Yes.	90 days, ends Nov. 10 <sup>th</sup> .	New ordinance would allow medical marijuana dispensaries to operate as long as they're not near schools, residential neighborhoods and public places. Would be limited to areas already allowing drug stores and pharmacies. Marijuana cultivation in some areas of town would also be allowed under the new provisions.
<b>Summit County</b>	Yes. Adopted 10/27.	120 days	Pending regulations that would be consistent with surrounding towns. Looking at location requirements (should the uses be allowed in mixed-use, commercial areas?) and minimum separation requirements. Proposing to allow cultivation, but prohibit commercial sale at home occupations and within residential areas.
<b>Superior</b>	No	NA	None. Considers current federal and local laws adequate in prohibiting medical marijuana.
<b>Thornton</b>	Yes, but expired.	1.5 months	City Council has considered Medical Marijuana Dispensaries a prohibited use and will reconsider the issue in 2 years.
<b>Westminster</b>	Yes	90 days	Considering regulations to allow, disallow, or allow with conditions.

ORDINANCE NO. \_\_\_\_\_

AN EMERGENCY ORDINANCE ADOPTING INTERIM REGULATIONS THROUGH MARCH 31, 2010, REGARDING MEDICAL MARIJUANA BUSINESSES NEAR SCHOOLS, RESIDENCES, OR OTHER MEDICAL MARIJUANA BUSINESSES, SPECIFYING THE ZONE DISTRICTS WHERE MEDICAL MARIJUANA BUSINESSES MAY BE LOCATED, AND PROVIDING RELATED DETAILS.

THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO MAKES THE FOLLOWING FINDINGS OF FACT:

- A. Article XVIII, Section 14 of the Colorado Constitution (the "Medical Marijuana Amendment") allows the use, acquisition, possession, production, or transportation of marijuana or related paraphernalia for medical use by patients and their primary caregivers.
- B. The Medical Marijuana Amendment to the Colorado Constitution does not provide a legal manner for patients to obtain medical marijuana unless the patient grows the marijuana or the marijuana is grown by the patient's primary caregiver.
- C. In order to grow and provide marijuana for medical use, some businesses have borrowed the concept of a 'dispensary' from medical marijuana laws of other states. In Colorado, the position of most dispensaries is that such businesses can serve as the primary caregiver for several patients. The dispensaries either grow marijuana for their patients or contract with marijuana grow operations to obtain marijuana. However the Medical Marijuana Amendment does not define a "dispensary." On October 29, 2009, the Colorado Court of Appeals announced a decision that seems to invalidate the dispensary position.
- D. More than 35 medical marijuana dispensaries for the sale of medical marijuana, and several businesses growing medical marijuana, have recently opened in the city. Other cities in Boulder County and the Denver metropolitan area have established temporary or permanent regulation regarding medical marijuana, placing further pressure on Boulder as a potential location for such businesses.
- E. Evidence exists to suggest that a number of additional such businesses may try to establish themselves within the city over the coming months.
- F. Use, sale, production, possession, and transportation of medical marijuana remains illegal under federal law and marijuana remains classified as a Controlled Substance by both Colorado and federal law.
- G. The regulations for medical marijuana uses are not adequately articulated at the state level, making it appropriate for local regulation of the impacts of such uses.

- H. The Boulder Revised Code does not include medical marijuana dispensaries or marijuana production as uses that are specifically allowed or prohibited. As a result, the city manager is required to make case-by-case determinations about whether proposed marijuana related uses are substantially similar to other uses identified in the Code. A better process will exist if the Code is amended to specifically deal with medical marijuana businesses.
- I. Residents of the city have expressed concern that marijuana businesses are being established in significant numbers in the city and that, in the absence of specific regulatory provisions, the businesses are being located in ways that create conflicts with surrounding uses or otherwise harm the public health, safety, and welfare.
- J. The city has a valid interest in regulating zoning and other impacts of medical marijuana businesses in a manner that is consistent with the Medical Marijuana Amendment.
- K. The city desires to facilitate the provision of quality medical marijuana in a safe manner consistent with the Medical Marijuana Amendment through well considered land use planning and regulations. The interim limitations of this ordinance are to protect existing uses within the city and permit the established medical marijuana businesses to operate where allowed under current zoning.
- L. Some operators of medical marijuana businesses have expressed that appropriate regulations by the city will be helpful to facilitate the provision of medical marijuana in a safe manner. In other states and areas where medical marijuana dispensaries have been unregulated, an increase in crime near dispensaries has occurred. Over the past year in Boulder, several violent crimes have occurred near (or in a manner related to) medical marijuana dispensaries.
- M. It is necessary for the city council to consider land use and other regulatory measures regarding medical marijuana dispensaries in order to avoid negative secondary impacts related to increases in violent crime or other problems created by incompatible land uses. Regulation of the manner of operation and location of medical marijuana uses is necessary to protect the health, safety, and welfare of both the public and the patients.
- N. Time is required for the city manager to develop and present options to the city council with regard to appropriate zoning and other regulatory provisions that should be applicable to medical marijuana businesses. Time is also required for the city council to study and implement land use and regulatory provisions that will appropriately address the impacts of medical marijuana businesses while also being consistent with applicable state law.
- O. It is in the best interest of those who operate medical marijuana businesses and members of the community that the land use and other regulatory provisions that will be applicable to medical marijuana businesses be clearly understood before more such businesses are established in areas where they are not a use by right.
- P. A suspension on the establishment of new medical marijuana businesses near schools or near each other or in certain zone districts until March 31, 2010, (the "suspension period") is necessary for the evaluation of potential land use and other regulatory options relating to medical marijuana businesses to keep options available to the city for appropriate locations of such businesses.

- Q. During the suspension period the public interest requires that no business, activity, or use involving the distribution of marijuana in a manner inconsistent with this ordinance or applicable law shall be deemed to have been legally established.

The Planning Board held a public hearing on potential regulations for medical marijuana uses on November 5, 2009, and the terms of the suspension period described below are consistent with the recommendations of the Planning Board

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

Section 1. The city council adopts the findings in this ordinance and incorporates them herein by this reference.

Section 2. Until after 5:00 p.m. on March 31, 2010:

- A. No medical marijuana business shall continue in operation unless:
1. it was legally established before November 6, 2009; or
  2. the application for a business license, land use approval, building permit, or certificate of occupancy was received by the Planning Department by November 5, 2009, and the business is in operation by December 1, 2009.
- B. There are no more than three other medical marijuana businesses within 500 feet of the proposed medical marijuana business. The 500 feet area shall be an area circumscribed by a line 500 feet from the perimeter of the lot line within which the medical marijuana business is proposed to be located.
- C. No application for a business license, land use approval, issuance of a building permit, or issuance of a certificate of occupancy that involve or are related to the operation of businesses that sell or grow medical marijuana that were received by the city after November 5, 2009 shall be processed, received, reviewed, approved, or otherwise acted upon by the city manager unless it is for a location that meets all of the following conditions:

1. The location of the business is not within 1,000 feet of a public or private, primary or secondary school.
2. The location of the business is not within 500 feet of three other medical marijuana business that are in operation.
3. The proposed business qualifies as a use permitted as a matter of right in the zone district it is proposed to be located, either as “retail,” “professional/office,” or a “greenhouse/nursery,” all as defined in Chapter 9-16 , B.R.C. 1981.
4. The proposed business is not in a dwelling unit or in a residential zoning district as described in Table 5-1 of Section 9-5-2, B.R.C. 1981, or as an accessory use of a dwelling unit or within a residential zoning district.

Section 3. For purposes of this ordinance, the following definitions shall apply:

A. “Medical marijuana business” means: (a) any establishment that makes available marijuana in any form to any other person in exchange for money, goods or services, or (b) possession of more than six marijuana plants and two ounces of a usable form of marijuana, unless the possession is by a patient or primary caregiver as defined in Article XVIII, Section 14 of the Colorado Constitution.

B. “In operation” or “open for operation” means any business or person that has opened to the public, either by appointment or regular hours, or signed a lease for, a medical marijuana business.

Section 4. The council finds that the businesses, at the addresses that are listed on Exhibit A of this ordinance are medical marijuana businesses in operation for the purposes of this ordinance, provided that said businesses are open for business by December 1, 2009.

Section 5. No person shall violate any provision of this ordinance. Any such violation shall be enforced or otherwise prosecuted as a misdemeanor under the provisions of Title 5, "General Offenses," B.R.C. 1981.

Section 6. Nothing herein is intended to legalize any medical marijuana business that is not legal under existing applicable Colorado law. To the extent any current ordinance or provision of the Boulder Revised Code is inconsistent with this ordinance, this ordinance such ordinance shall be suspended for the limited purpose of the implementation of this ordinance until March 31, 2010.

Section 7. The city council directs the city manager to study, develop, evaluate and review appropriate regulations and ordinances pertaining to medical marijuana businesses for presentation to and consideration by the city council. In the event that any recommendations involve amendment to land use regulations of the city, those recommendations shall be presented to the planning board for recommendation to the city council.

Section 8. The city council finds that a public health and safety justifies the adoption of the interim development regulations described by this ordinance as an emergency measure. The nature of the emergency is described, in part, by the findings of fact set forth in this ordinance. The city council further finds that time is required to consider reasonable regulations for medical marijuana businesses. The city council also needs sufficient time to evaluate approaches to avoiding negative impacts associated with a concentration of medical marijuana businesses and to avoid the establishment of incompatible uses located in close proximity to each other. Also, the city council needs time to consider legislation that will increase security for and mitigate or avoid any increase in violence or criminal activities attendant to unregulated medical marijuana businesses. Therefore, the city council orders that this ordinance shall be effective immediately upon its passage.

Section 9. The city council deems it appropriate that this ordinance be published by title only and orders that copies of this ordinance be made available in the office of the city clerk for public inspection and acquisition.

INTRODUCED, READ, PASSED, AND ADOPTED AS AN EMERGENCY MEASURE  
BY TWO-THIRDS COUNCILMEMBERS PRESENT, AND ORDERED PUBLISHED BY TITLE  
ONLY this 10th DAY OF NOVEMBER, 2009.

---

Mayor

Attest:

---

City Clerk on behalf of the  
Director of Finance and Record

# EXHIBIT A

## Medical Marijuana

Business Name	Location	Date Applied	Decision Date	Decision	Zone
1 New Options Wellness LLC	2855 Aurora Ave #40	3/24/09	March 2009	Approved	RH4
2 Boulder Alternative Medicine	1325 Broadway, #213	5/19/09	5/26/09	Approved	BMS
3 Cannabis Healing Arts	1580 Canyon	6/18/09	8/14/2009	Approved	DT-5
4 Therapeutic Compassion Center	1501 Lee Hill, #22	7/13/09	8/17/2009	Approved	IS-1
5 THC Ministry of Boulder	1221 Pearl St, #10	8/14/09	8/18/2009	Approved	DT-4
6 Mountain Medicine Group	1320 Pearl St, Suite 240	8/28/09	8/31/2009	Approved	DT-4
7 Natural Alternate Medicine LLC	5370 Manhattan Circle, Suite 104	8/21/09	10/19/2009	Approved	BT-1
8 Greenleaf Pharmacy	1644 Walnut Ave	9/9/09	9/11/2009	Approved	DT-2
9 JTR Caregivers LLC	2714 28th Street	9/17/09	9/23/2009	Approved	BC-2
10 BMMC Services	2206 Pearl Street	9/9/09	10/13/2009	Approved	MU-3
11 Vape Therapeutics	1327 Spruce, Suite 300	9/11/09	9/14/2009	Approved	DT-3
12 Healing House LLC	1303 1/2 Broadway	9/11/09	10/6/2009	Approved	BMS
13 Boulder MMJ	1909 Broadway, 100LL	9/17/09	9/23/2009	Approved	DT-5
14 The Medication Company	4483 Broadway	9/25/09	10/13/2009	Approved	MU-2
15 The Greenest Green	2034 Pearl Street, Unit 102	9/25/09	10/13/2009	Approved	MU-3
16 High Grade Alternatives	3370 Arapahoe Ave	9/29/09	10/11/2009	Approved	BR-1
17 Flower of Life Healing Arts Inc	3970 Broadway, Suite 201	10/7/09	10/14/2009	Approved	RL-2
18 Colorado Care and Wellness	1000 Alpine	10/7/09	10/28/2009	Approved	BT-1
19 Boulder Care and Wellness	1000 Alpine	10/7/09	10/28/2009	Approved	BT-1
20 Boulder Wellness Center	5420 Arapahoe Ave, Unit F	10/7/09	10/14/2009	Approved	BC-1
21 Trill Alternative	2031 16th Street	10/7/09	10/14/2009	Approved	DT-2
22 Boulder Rx	1035 Pearl St, 3rd Floor	10/9/09	10/13/2009	Approved	DT-2
23 Boulder Kind Care, LLC	2031 16th Street	10/9/09	10/14/2009	Approved	DT-2
24 The Bud	2500 Broadway, Suite 100	10/9/09	10/14/2009	Approved	BC-2
25 Ohana PC	918 University Ave	10/9/09	10/19/2009	Approved	RMX-1
26 Boulder's Unique Dispensary	900 28th Street	10/14/09	10/15/2009	Approved	RH-3
27 K&K	1212 13th Street	10/13/09	10/15/2009	Approved	BMS
28 MediPharm	800 Pearl Street	10/16/09	10/27/2009	Approved	BMS
29 Boulder Medical Marijuana Disp	2111 30th Street, Unit A	10/16/09	10/19/2009	Approved	BR-1
30 Evolution Medicine Services	4476 N Broadway	10/16/09	10/28/2009	Approved	MU-2
31 Trill Alternative	2043 16th Street	10/19/09	10/22/2009	Approved	DT-2
32 Top Shelf Alternatives, LLC	1327 Spruce, Suite 301	10/20/09	10/22/2009	Approved	DT-3
33 Kind Care of Boulder	2043 16th Street	10/20/2009	10/22/2009	Approved	DT-2
34 Trill Alternative	1537 Pearl St	10/23/2009	10/28/2009	Approved	DT-4
35 Indigenous Medicines	1200 Pearl St, Suite 35	10/23/2009	10/28/2009	Approved	DT-4
36 Boulder Rx	6560 Odell Place	10/23/2009	10/28/2009	Approved	IG
37 Crème de la chron	2450 Central Ave	10/23/2009	10/28/2009	Approved	IG
38 DrReefer.com	1121 Broadway G-1	10/27/2009	10/30/2009	Approved	BMS

ORDINANCE NO. \_\_\_\_\_

AN EMERGENCY ORDINANCE TEMPORARILY SUSPENDING  
THROUGH MARCH 31, 2010, THE OPENING OF NEW MEDICAL  
MARIJUANA BUSINESSES OR ESTABLISHMENTS AND  
PROVIDING RELATED DETAILS.

THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO MAKES THE  
FOLLOWING FINDINGS OF FACT:

- A. Article XVIII, Section 14 of the Colorado Constitution (the "Medical Marijuana Amendment") allows the use, acquisition, possession, production, or transportation of marijuana or related paraphernalia for medical use by patients and their primary caregivers.
- B. The Medical Marijuana Amendment to the Colorado Constitution does not allow growing or sale of marijuana by persons other than a patient or a primary caregiver. Nor does it allow any use of marijuana other than medical use, as defined in the Amendment.
- C. The Medical Marijuana Amendment does not define a "dispensary" and only allows the production of medical marijuana by a patient or a patient's primary caregiver.
- D. More than 35 medical marijuana dispensaries for the sale of medical marijuana, and several businesses growing medical marijuana, have recently opened in the city. Other cities in Boulder County and the Denver metropolitan area have established temporary or permanent regulation regarding medical marijuana, placing further pressure on Boulder as a potential location for such businesses.
- E. Evidence exists to suggest that a number of additional such businesses may try to establish themselves within the city over the coming months.
- F. Use, sale, production, possession and transportation of medical marijuana remains illegal under federal law and marijuana remains classified as a Controlled Substance by both Colorado and federal law.
- G. The regulations for medical marijuana uses are not adequately articulated at the state level, making it appropriate for local regulation of the impacts of such uses.
- H. The Boulder Revised Code does not include medical marijuana dispensaries or marijuana production as uses that are specifically allowed or prohibited. As a result, the city manager is required to make case-by-case determinations about whether proposed marijuana related uses are substantially similar to other uses identified in the Code. A better process will exist if the code is amended to specifically deal with medical marijuana businesses.
- I. Residents of the city are concerned that marijuana businesses are being established in significant numbers in the city and that, in the absence of specific regulatory provisions,

they are being located in ways that create conflicts with surrounding uses or otherwise harm the public health, safety and welfare.

- J. The city has a valid interest in regulating zoning and other impacts of medical marijuana businesses in a manner that is consistent with the Medical Marijuana Amendment.
- K. In other states and areas where medical marijuana dispensaries have been unregulated, an increase in crime near dispensaries has occurred. Over the past year in Boulder, several violent crimes have occurred near (or in a manner related to) medical marijuana dispensaries.
- L. It is necessary for the city council to consider land use and other regulatory measures regarding medical marijuana dispensaries in order to avoid negative secondary impacts related to increases in violent crime or other problems created by incompatible land uses. Regulation of the manner of operation and location of medical marijuana uses is necessary to protect the public health, safety and welfare.
- M. Time is required for the city manager to develop and present options to the city council with regard to appropriate zoning and other regulatory provisions that should be applicable to medical marijuana businesses. Time is also required for the city council to study and implement land use and regulatory provisions that will appropriately address the impacts of medical marijuana businesses while also being consistent with applicable state law.
- N. It is in the best interest of both those who operate medical marijuana businesses and other members of the community that the land use and other regulatory provisions that will be applicable to medical marijuana businesses be clearly understood before more such businesses are established.
- O. A suspension on the establishment of any new medical marijuana businesses until March 31, 2010, (the "suspension period") is necessary for the evaluation of potential land use and other regulatory options relating to medical marijuana businesses.
- P. During the suspension period the public interest requires that (to the extent consistent with applicable law), no business, activity or use involving the distribution of marijuana shall be deemed to have been legally established.

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

Section 1. The city council adopts the findings in this ordinance and incorporates them herein by this reference.

Section 2. Until after 5:00 p.m. on March 31, 2010, a moratorium shall be imposed upon all applications for business licenses, land use approvals, issuance of building permits or issuance of certificates of occupancy that involve or are related to the operation of businesses that sell or grow

medical marijuana within the city. During this moratorium suspension period, no applications of these types shall be received, reviewed, approved or otherwise acted upon by the city manager. During this moratorium suspension period, no new medical marijuana businesses shall be approved or operate within the city.

Section 3. During the period of the moratorium, no person or entity shall grow or cultivate marijuana for private use in the city. However, this prohibition shall not apply to patients, as defined in Article XVIII Section 14 of the Colorado Constitution who grow medical marijuana for the patient's personal use in compliance with state law, or to a primary caretaker for identifiable patients who operate in compliance with state law. The city council does not intend to close or otherwise prohibit the operation of any medical marijuana business that was in lawful existence and operating in compliance with Colorado's medical marijuana laws on the effective date of this ordinance.

Section 4. No person shall violate any provision of this ordinance. Any such violation shall be enforced or otherwise prosecuted as a misdemeanor under the provisions of Title 5, "General Offenses," B.R.C. 1981.

Section 5. The city council directs the city manager to study, develop, evaluate and review appropriate regulations and ordinances pertaining to medical marijuana businesses for presentation to and consideration by the city council. In the event that any recommendations involve amendment to land use regulations of the city, those recommendations shall be presented to the planning board for recommendation to the city council.

Section 6. The city council finds that a public health and safety emergency exists that justifies the imposition of the moratorium described by this ordinance. The nature of the emergency is described, in part, by the findings of fact set forth in this ordinance. The city council further finds that time is required to adopt reasonable guidelines and regulations for the growth and sale of

medical marijuana. The city council also needs sufficient time to evaluate approaches to avoiding negative impacts associated with a concentration of medical marijuana businesses and to avoid the establishment of incompatible uses located in close proximity to each other. Also, the city council needs time to consider legislation that will increase security for and mitigate or avoid any increase in violence or criminal activities attendant to unregulated medical marijuana businesses. These various considerations justify the immediate imposition of a moratorium. Therefore, the city council orders that this ordinance shall be effective immediately upon its passage.

Section 7. The city council deems it appropriate that this ordinance be published by title only and orders that copies of this ordinance be made available in the office of the city clerk for public inspection and acquisition.

INTRODUCED, READ, PASSED, AND ADOPTED AS AN EMERGENCY MEASURE  
BY TWO-THIRDS COUNCILMEMBERS PRESENT, AND ORDERED PUBLISHED BY TITLE  
ONLY this 10th DAY OF NOVEMBER, 2009.

---

Mayor

Attest:

---

City Clerk on behalf of the  
Director of Finance and Record