



360 Main St. • Delta, Colorado 81416 • Phone (970) 874-7566 • Fax (970) 874-8776

A G E N D A

**Delta City Council
Work Session**

**February 5, 2019
5:30pm**

- A. Update on Website**
- B. Discussion Regarding Marketing Coordinator Position**
- C. Discussion Regarding Medical Marijuana Licensing**

MEMO

To: Mayor and City Council
From: Wilma Erven, Parks, Recreation & Golf Director
Date: February 5, 2019
Subject: Update on the new website for City of Delta



Parks, Recreation and Golf Department

Background

A committee of staff from each department was formed; they met and developed a Request for Proposal. The proposal was advertised and distributed to web designers.

Nine (9) proposals were submitted for consideration. The committee met several times, reviewed and scored the proposals, then requested a demonstration from the top three companies.

After the demonstrations, the committee met again to reevaluate and score a second time, the top three companies. The company who received the highest scores was Municode, which was a unanimous decision.

The decision to move forward with hiring a web designer before the Marketing Coordinator was hired, was made so that the transferring and all of the back work would be completed and the Marketing Coordinator would be able to start with the design team on the actual design part of the site.

Time frame will be four to six months for total completion.

Cost

The cost for year one with design, hosting, training and customer support will be \$12,100. The following years will have a yearly fee for hosting, maintenance and customer support of \$4,200. The budget was \$25,000 for year one.

Alignment with Strategic Planning:

Communicating with the citizens and the world, while displaying Delta Pride.

Actions To Be Taken if Approved:

None, as Council approved the new website in the 2019 budget

MEMO

To: Mayor and City Council
From: Wilma Erven, Parks, Recreation & Golf Director
Date: February 5, 2019
Subject: Review & input on Marketing Coordinator position



Parks, Recreation and Golf Department

Background

As per City Council direction, a position for a Marketing Coordinator was allocated in the 2019 budget. Staff has started the development of the job description and this position will go out to advertisement this week.

City Council requested to review the Job Summary and Essential Job Duties. The detail job duties will be completed following the review from Council.

Cost

Position was put into the 2019 budget.

Alignment with Strategic Planning:

Marketing and developing events for City of Delta, while displaying Delta Pride and making Delta a destination for tourist.

Actions To Be Taken if Approved:

Review Job Summary and Essential Job Duties by City Council and give input to staff.

MARKETING COORDINATOR

Revised 1/31/2019
Non-exempt

JOB SUMMARY:

Under direct supervision of the Parks, Recreation and Golf Director, promotes the City of Delta by preserving and enhancing our community while supporting all areas of marketing, with an emphasis on branding and other strategic initiatives, as outlined in the Strategic Plan.

ESSENTIAL JOB DUTIES:

Organizes and coordinates a variety of new and existing City special events; facilitates the City wide marketing and branding efforts; researches demands for the City's products and services; facilitates competitor research; manages the City's website and social media; and serves as a Public Information Officer.

ORDINANCE NO. 18, 2018

**AN ORDINANCE OF THE CITY OF DELTA, COLORADO,
HEREBY AMENDING THE DELTA MUNICIPAL CODE TO
PROVIDE RULES AND REGULATIONS FOR THE
LICENSING AND OPERATION OF MEDICAL MARIJUANA
FACILITIES**

WHEREAS, the Constitution of the State of Colorado, Article XVIII, Section 14, authorizes the medical use of marijuana for persons suffering from debilitating medical conditions; and

WHEREAS, the Colorado legislature has enacted C.R.S. § 44-11-101, *et seq.* providing for the regulation of medical marijuana; and

WHEREAS, prior to November 2018, the City Code banned the sale, cultivation, and production of any form of marijuana, medical or otherwise, within the City of Delta, subject only to individual rights relating to marijuana as set forth in the Colorado Constitution; and

WHEREAS, at the general election in November 2018, a majority of the electorate voted to authorize the sale, manufacturing, research and development, testing, and cultivation of medical marijuana within the City but also voted against legalizing any such activities relating to “retail marijuana” as defined in C.R.S. § 44-12-103; and

WHEREAS, the City’s municipal code does not currently provide for the licensing or regulation of medical marijuana business, facilities or operations; and

WHEREAS, the City has the authority to adopt local license regulations relating to medical marijuana pursuant to its home rule authority, the Colorado Constitution, and C.R.S. § 44-11-301.

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

Section 1: Title 5 of the Code is hereby amended by the following addition of Chapter 5.22:

Chapter 5.22

MEDICAL MARIJUANA LICENSING - GENERAL PROVISIONS

Sections:

- 5.22.010 Purpose and Description.
- 5.22.020 Adoption of Colorado Medical Marijuana Code.
- 5.22.030 Definitions.
- 5.22.040 License Required.
- 5.22.050 Limit on Licensed Premises.
- 5.22.060 License Application.
- 5.22.070 Application Review Procedure.
- 5.22.080 Public Hearing Procedure.
- 5.22.090 Review Criteria and appeals.
- 5.22.100 Posting, Display of License.
- 5.22.110 Expiration of License.
- 5.22.120 Transfer of License.
- 5.22.130 Change of Location or Licensed Premises Modification.
- 5.22.140 Renewal of License.
- 5.22.150 Inspection.
- 5.22.160 License Suspension or Revocation.
- 5.22.170 License Revocation.
- 5.22.180 Suspension or Revocation Hearings.
- 5.22.190 Notice of Suspension or Revocation.
- 5.22.200 Effect of Suspension or Revocation.
- 5.22.210 Summary Suspension.
- 5.22.220 Performance Standards for Medical Marijuana Establishments.
- 5.22.230 Injunction.
- 5.22.240 Prohibited Acts – Penalty.

5.22.010 Purpose and Description. The purpose of this Chapter is to regulate and control potential adverse effects from medical marijuana businesses in accordance with the power granted by the Colorado Constitution, state law, and the City’s police power, and thereby to protect the health, safety and welfare of the citizens; protect the citizens from increased crime; preserve the quality of life; and preserve the property values and character of the surrounding neighborhoods. This Chapter is authorized by C.R.S. § 44-11-101, *et seq.* and other applicable law.

5.22.020 Adoption of Colorado Medical Marijuana Code. Except as expressly set forth herein, the City hereby adopts and incorporates herein the Colorado Medical Marijuana Code, Article 11, Title 44, Colorado Revised Statutes (“Medical Code”), Code and the provisions of the Colorado Department of Revenue Marijuana Enforcement Division Medical Marijuana Rules, 1

CCR 212-1, as now existing or as may be hereafter amended. At least one (1) copy of these documents will be kept on file by the City Clerk and open to public inspection during regular business hours.

5.22.030 Definitions. Except where specifically defined in this Section, the capitalized terms in this Chapter shall have the same meaning as that set forth in Article XVIII, Section 14 of the Colorado Constitution, the Colorado Medical Marijuana Code or the Permanent Rules Related to the Colorado Medical Marijuana Code. In the event of any conflict between such documents, the Permanent Rules shall control over this Section, the Colorado statutes shall control over the Permanent Rules, and the Colorado Constitution shall control over all other legal authorities. Federal law shall not be relevant in interpreting this Section.

A. Applicant shall mean the person or entity submitting an Application, Change Application, Renewal Application, or other application provided for under this Chapter, and shall include all members, shareholders, officers, directors, partners and managers in the case of a corporate entity or partnership.

B. Application shall mean the submission by an Applicant of all materials required under this Chapter or under the Medical Code or Permanent Rules for a new License.

C. Change Application means an application from a Licensee to change the location of a License or to modify or expand a Licensed Premises, including by adding a new type of Medical Marijuana Establishment to the licensed premises that complies with Section 5.22.130.

D. Code means the City of Delta Municipal Code.

E. Colorado Medical Marijuana Code or Medical Code Shall Mean Article 11 of Title 44 of the Colorado Revised Statutes, as amended.

F. License shall mean a license granted by the City to an Applicant for a Licensed Premises.

G. Licensed Premises shall mean the premises specified in a State License supplied for approval pursuant to this Chapter, owned or in the possession of the Licensee permitting the Licensee to operate a Medical Marijuana Establishment in accordance with the provisions of the Code and this Chapter.

H. Licensee shall mean a person licensed pursuant to the Code and approved pursuant to this Chapter.

I. Medical Marijuana shall have the same meaning as set forth in C.R.S. § 44-11-104.

J. Medical Marijuana Center shall have the same meaning as set forth in C.R.S. § 44-11-104.

K. Medical Marijuana Establishment shall have the same meaning as a Medical Marijuana Facility as set forth in Section 17.04.020(A) of the Code.

L. Medical Marijuana-Infused Product shall have the same meaning as set forth in C.R.S. § 44-11-104.

M. Medical Marijuana-Infused Products Manufacturing Facility shall have the same meaning as set forth in C.R.S. § 44-11-104.

N. Medical Marijuana Testing Facility shall mean a facility as described in C.R.S. § 44-11-405.

O. Optional Premises Cultivation Operation shall have the same meaning as set forth in C.R.S. § 44-11-104.

P. For purposes of this Chapter 5.22 only, “Park” means any public park within City limits owned and controlled by the City or by the federal government, the State or any political subdivision thereof, and also any privately-owned parcel within a subdivision in the City designated as a park to be maintained by an owner’s association, but not including general common areas that are not specifically designated for park purposes.

Q. Permanent Rules shall mean the Colorado Department of Revenue Permanent Medical Marijuana Rules effective January 1, 2019, 1 CCR 212-1, as the same may be in effect and amended from time to time.

R. Renewal Application means an application from an existing licensee to renew a License previously approved by the City Council pursuant to this Chapter that complies with Section 5.22.140.

S. For purposes of this Chapter 5.22 only, “School” has the same definition set forth in C.R.S. § 44-11-104.

T. State License shall mean the license granted by the Colorado Department of Revenue pursuant to the Medical Code and Permanent Rules for the operation of a Medical Marijuana Establishment.

5.22.040 License Required. It shall be unlawful for any person to operate a Medical Marijuana Establishment without a State License and without a License issued under the provisions of this Chapter. A separate License is required for each Medical Marijuana Establishment and each Licensed Premises.

5.22.050 Limit on Licensed Premises. The total number of each type of licenses to operate within the City shall be limited as follows:

A. Medical Marijuana Centers licensed to operate within the City shall not exceed two (2) at any point in time.

B. Medical Marijuana – Infused Products Manufacturing Facilities licensed to operate within the City shall not exceed two (2) at any point in time.

C. Medical Marijuana Optional Premises Cultivation Facilities licensed to operate within the City shall not exceed two (2) at any point in time.

D. There shall be no limit on the number of Medical Marijuana Testing Facilities licensed to operate with the City.

E. There shall be no limit on the number of Medical Marijuana Research and Development Facilities within the City, except to the extent that any such facilities conduct activities otherwise requiring a License under this Chapter.

No Application will be accepted, processed, or reviewed unless a License of the type applied for is available as of the date and time of submission of an Application.

5.22.060 License Application.

A. Subject to Section 5.22.070 herein, Applications shall be reviewed by the City Clerk in the order in which they are received and be accompanied by a non-refundable application fee and a refundable license fee.

The City Clerk shall post a public notice within three (3) business days after any License becomes available for processing. The notice shall state that Applications will be accepted for a period of five (5) business days after posting of the notice and shall specify the five (5) day deadline by date and time that Applications will be accepted. The City Clerk shall have authority to extend the application deadline to accept Applications if fewer Applications are submitted by the deadline than the number of available Licenses, but in such event any complete Applications submitted by the original deadline may proceed to be processed in accordance with this Chapter without the need to participate in the lottery process described below.

If more Applications are submitted by the original deadline than the number of available Licenses, or if more Applications are submitted by any extended deadline than the number of remaining available Licenses, the City Clerk shall determine whether the Applications are complete in accordance with Section 5.22.070. After determining which Applications are complete, the City Clerk shall randomly select the number of complete Applications equal to the number of available Licenses for further processing and shall promptly notify all Applicants of the selection results.

Following this process, if more Licenses are available than the number of complete Applications already submitted, the City Clerk shall wait ten (10) days for the resubmission of

Applications that were found to be incomplete. At the conclusion of this waiting period the City Clerk shall determine whether the resubmitted Applications are complete in accordance with Section 5.22.070. After determining which resubmitted Applications are complete, the City Clerk shall randomly select the number of complete resubmitted Applications equal to the number of available Licenses for further processing and shall promptly notify all resubmitting Applicants of the selection results. Incomplete Applications may only be resubmitted one (1) time. Resubmitted Applications that remain incomplete shall be rejected.

No new Applications shall be accepted, processed, or reviewed until or unless the selected Applications are denied or until a License otherwise becomes available. Application fees are not refundable for Applicants not selected for processing. If an Applicant randomly selected for processing by the City is denied its State License, then the City License shall be deemed automatically denied, and the City Clerk shall randomly select another Application for processing by the City from the original pool of complete Applications submitted by the deadline and resubmitted Applications that are determined to be complete. If the remaining pool of complete Applications is less than the number of available Licenses, then the City Clerk shall post a new notice as provided herein to select the next Application(s) to be processed.

B. An Application for the Operation of a Medical Marijuana Establishment at a Licensed Premises shall be made as required by the Medical Code and Permanent Rules. The Applicant has the burden of demonstrating compliance with the provisions of this Chapter, the Code, the Medical Code, the Permanent Rules, and any other applicable law, rule or regulation. All representations and information contained in the Application must be truthful. The Application to the City shall include the following:

1. An application form provided by the City.
2. A complete copy of the State License application as or to be submitted to the State Marijuana Enforcement Division.
3. Proof of ownership, lease, rental agreement or other arrangement for possession of the proposed Licensed Premises.
4. A diagram showing the configuration of the proposed Licensed Premises, including a statement of total floor space occupied by the businesses, and designating the use of each room or other area of the premises.
5. The diagram shall designate those rooms or other areas of the premises where patrons are not permitted.
6. Sign, security, video surveillance, odor control, and lighting plans indicating how the Applicant will comply with the requirements of the Code, this Chapter, the Medical Code, and the Permanent Rules and any other applicable law, rule or regulation.
7. An area map, drawn to scale, indicating the boundaries of the property upon which the Medical Marijuana Establishment is located, and indicating the proximity, measured per the standards as set forth below, of the proposed Licensed Premises to any School, state licensed day care facility, church, Park, or law enforcement or court facility.
8. The diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of

plus or minus six inches (+/- 6"). A dimensioned map utilizing the Delta County GIS system is acceptable.

9. The diagram shall designate the place at which the License will be conspicuously posted as required by this Chapter.

10. Payment of all required fees as set forth on the City's Medical Marijuana Establishment fee schedule together with an agreement to reimburse consultant fees on a form provided by the City.

11. An application(s) has been filed with the City for the proposed Licensed Premises location for approval pursuant to the zoning, land use laws and distance requirements of the City.

12. A statement of whether or not any of the named owners, principals, managers, parties with a financial interest, employees or other persons named on the application have been:

(a) Denied an application for a medical marijuana business license by any other jurisdiction, including the State, or has had such license suspended or revoked;

(b) Denied an application an application for liquor license pursuant to Article 46 or 47, Title 12, C.R.S., or had any such license suspended or revoked;

(c) Convicted, entered a plea of no contest or entered a plea of guilty in conjunction with a deferred judgment and sentence pertaining to any charge related to the possession, use or possession with intent to distribute narcotics, drugs or other controlled substances; or

(d) Convicted, entered a plea of no contest or entered a plea of guilty in conjunction with a deferred judgment and sentence pertaining to any offense related to a DUI or a DWAI.

(e) Convicted, entered a plea of no contest or entered a plea of guilty in conjunction with a deferred judgment and sentence pertaining to any offense arising under Title 9 of the City Code.

C. Application and license fees for medical marijuana shall be as follows:

1. New license application fee: \$5,000;
2. License renewal application fee: \$3,500;
3. Transfer of location application fee: \$3,500;
4. Transfer of ownership application fee: \$3,500;
5. Annual license fee: \$5,000.

The City Council, by resolution, may increase or decrease any fee or cost or otherwise modify any other provisions set forth in subsection (C). The license fee, but not the application fees, shall be refundable within fourteen (14) days if the application is denied.

5.22.070 Application Review Procedure.

A. Within ten (10) business days of submission of an Application the City Clerk or its designee shall conduct an initial review of the Application to determine whether it is complete. Such initial review will examine whether:

1. All application materials required by section 5.22.060 have been received;
2. The proposed Licensed Premises location is approved pursuant to the zoning, land use laws and distance requirements of the City, or that the necessary land use application(s) has been made under Chapter 17.04. Land use applications shall be processed concurrently with the Application for a License; provided, however, any approval of the Application shall be conditioned upon approval of the land use application(s);
3. The Applicant has established a meeting date with the Colorado Department of Revenue Marijuana Enforcement Division at which an application for a State License will be submitted, or that the application for a State License has been submitted to and has been deemed complete by the Colorado Department of Revenue Marijuana Enforcement Division; and
4. The Applicant is, or will be, entitled to possession of the proposed Licensed Premises for which application is made by virtue of ownership, lease, rental agreement, or other arrangement for possession.

B. If during the initial review the Application is deemed incomplete the City Clerk shall notify the Applicant, in writing, of the missing and required materials or information. The Applicant shall have ten (10) business days from this notice to provide the missing materials or information, or the Application will be deemed automatically denied. If the Applicant submits all missing materials and information within the ten (10) business day period, then the Application will be processed only if Applications are still being accepted for processing pursuant to this Chapter as of that time.

C. If or when the Application is deemed complete the City Clerk shall notify the Applicant and schedule a public hearing on the Application in front of the City Council not less than thirty (30) and not more than sixty (60) days from the date the Application is deemed complete.

D. The Applicant shall be required to provide notice of the public hearing at its sole cost and expense. Such notice shall be made in the same manner set forth in Section 17.04.290(D) of the Code. The notice shall state the type of license applied for, the date of the application, the date of the hearing, the name and address of the Applicant and such other information as may be required to fully apprise the public of the nature of the application. If the Applicant is a partnership, the notice shall contain the names and addresses of all partners, and if the Applicant is a corporation, association, limited liability company or other organization, the notice shall contain the names and addresses of the president or manager or other managing officer(s) of the business as well as their members or shareholders, as applicable. If the partners, members, officers, managers, or shareholders are corporate entities and not individual persons, the individuals comprising such entities shall also be disclosed.

E. The City Clerk shall forward the completed Application to all appropriate City departments, consultants and referral agencies for review of compliance with the provisions of this Chapter, the Code, the Medical Code, the Permanent Rules, and any other applicable law, rule or regulation.

5.22.080 Public Hearing Procedure.

A. Except as specifically set forth herein, all hearings for a License shall be conducted by the City Council.

B. The City Council may on its own motion and without the Applicant's consent continue the public hearing one (1) time to a date certain for a period not to exceed thirty (30) days. Continuances for longer than thirty (30) days require the consent of the Applicant.

C. All decisions on an Application shall be in writing stating the reasons therefore. The City Council shall either deny the Application or approve the Application with or without conditions. Within thirty (30) days after the date of the public hearing a copy of such decision shall be hand delivered or sent by first-class mail to the Applicant at the address shown in the Application. If the City Council fails to approve the Application within these deadlines, unless the deadline is waived by the Applicant, such failure shall be deemed a denial of the Application.

D. The City shall notify the state licensing authority of such decision.

5.22.090 Review Criteria and Appeals

A. In order to approve a License the City Council shall find:

1. The Application is complete and all fees have been paid;
2. Public Notice was properly provided pursuant to the provisions of this Chapter;
3. The Applicant is qualified under the provisions of this Chapter;
4. The State License application has been prepared for submission to (including the setting of a meeting date with the Marijuana Enforcement Division) or received by the Marijuana Enforcement Division, deemed complete, and approved or conditioned on granting of the License by the City; and
5. The proposed Licensed Premises comply with the design and performance requirements of this Chapter, the Code, the Medical Code and the Permanent Rules, including meeting the required spacing, and any other applicable law, rule or regulation.

B. With respect to those decisions delegated to the City Clerk in this Chapter, the City Clerk shall consider and make decisions based on the criteria of this Chapter.

C. The approval requirements set forth in this Chapter shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other state or local law, including, but not by way of limitation, a retail sales tax license, retail food establishment license, or development, zoning or building permit.

5.22.100 Posting, Display of License.

A. Every License issued by the City for a Medical Marijuana Establishment shall be posted during the period such License is valid. Such License shall be posted in a conspicuous place

and shall be visible from the principal entrance of the Licensed Premises. When such License expires, it shall be removed; only valid Licenses in full force and effect shall remain posted.

B. It shall be the duty of each Licensee to exhibit the License upon the request of any peace officer or other official of the City.

5.22.110 Expiration of License. Each License shall expire one (1) year from the date of issuance and may be renewed only by making application as provided in Section 5.22.140 of this Chapter. A Licensee must immediately notify the City and cease operations if the Licensee's State License expires or is not renewed for any reason. No Licensee shall operate a Medical Marijuana Establishment without a valid, active State License.

5.22.120 Transfer of License. No License shall be transferred from one person or entity to another without prior approval from the City and the State. Any change of ownership, including change to corporate or partnership structure, shall require an application for transfer of ownership and payment of the transfer of ownership fee set by the City. The City Clerk shall approve or deny the transfer application based on the standards set forth in this Chapter. A transfer of a License in compliance with this Section 5.22.120 is not considered an application for a new License and is therefore not subject to or affected by Section 5.22.050.

5.22.130 Change of Location or Licensed Premises Modification.

A. A License may be transferred to a different location or a Licensed Premises may be modified or expanded, including by adding the operation of another type of Medical Marijuana Establishment at the Licensed Premises, only upon:

1. Submission of a complete Change Application at least thirty (30) days prior to the effective date of the proposed change;
2. Payment of the License Change Application fee in effect at the time of application; and
3. Approval of the Change Application by a resolution of the City Council following a public meeting at which the Change Application was reviewed and considered.

B. A Change Application shall include the following:

1. A Change Application form prepared and provided by the City;
2. Proof of ownership, lease, rental agreement, or other arrangement for possession of the new location of the License and Licensed Premises;
3. Payment of the Change Application fee; and
4. A diagram showing the configuration of the proposed Licensed Premises at the new location or the proposed modifications to the Licensed Premises at the original location, including a statement of total floor space occupied by the business, and designating the use of each room or other area of the premises and which rooms or areas where patrons are not permitted.

C. The application review procedures set forth in Section 5.22.070 shall apply to all

Change Applications, except that the City Clerk shall schedule a public meeting for review of the Application instead of a public hearing.

D. In order to approve a Change Application the City Council shall find:

1. The Change Application is complete and all fees have been paid;
2. Public Notice was properly provided pursuant to the provisions of this Chapter;

and

3. The proposed new location of the Licensed Premises is permitted under the zoning, land use laws, and distance requirements of the City, or that the necessary land use application(s) has been made under Chapter 17.04 and approved. Land use applications may be processed concurrently with the Change Application.

E. Applicant shall change the location of its business to that specified in the approved Change Application within sixty (60) days of the City Council's approving the Change Application pursuant to this Chapter. If the Applicant fails to meet this deadline, then the approval shall automatically expire, and any change of location shall require a new application and payment of a new application fee.

F. At no time may a Medical Marijuana Establishment operate or exercise any of the privileges granted pursuant to a License in more than one location.

G. A Change Application is not considered an application for a new License and is therefore not subject to or affected by Section 5.22.050.

5.22.140 Renewal of License.

A. At any time from sixty (60) to forty five (45) days prior to the expiration of the current License, a Licensee may submit a Renewal Application to renew the existing License for the succeeding year and pay the required fees. Unless otherwise provided by this Chapter, if application is so made and no action or proceeding is pending against the Licensee for suspension or revocation of the current License, such License may continue as valid unless or until the Renewal Application is reviewed by the City Council or City Clerk, as applicable.

B. The City Clerk or its designee shall send the Renewal Application to all City departments for review and comment.

C. The City Clerk shall have authority to renew the license if there have been no suspensions of the License during the previous one (1) year period, if there are no written objections from the police department, and if there is no information submitted by any City department or any member of the public suggesting any violation of this Chapter, the Medical Code, or the Permanent Rules. Otherwise, the Renewal Application shall be brought before the City Council for consideration at a public meeting.

D. The City Council may renew the License upon a finding that Licensee's licensed

Medical Marijuana Establishment was operational as of the date the Renewal Application was considered by the City Council and that there have not been any suspensions of the License for a one (1) year period. Should the Licensee's Medical Marijuana Establishment not be operational, a violation have been found to exist or for other good cause, the City Council may renew the License with or without conditions or may deny the renewal.

E. A Renewal Application is not considered an application for a new License and is therefore not subject to or affected by Section 5.22.050.

5.22.150 Inspection.

A. Every Licensed Premises and adjacent grounds shall be open to inspection by police officers, building officials, Fire Department officials, zoning officials and health department officials at any time that anyone is present in the Licensed Premises, without obtaining a search warrant and without reasonable suspicion to believe that any violation or criminal offense has occurred.

B. The Licensee, principals, business manager and employees shall have no reasonable expectation of privacy as to the buildings, rooms, areas, furniture, safes, lockers or containers on the licensed premises and adjacent grounds, except as provided in this section.

C. Licensees, principals, business managers, employees, patients, primary caregivers and other persons on the licensed premises and adjacent grounds shall retain a reasonable expectation of privacy as to their medical condition, their persons, the personal effects in their immediate possession, and their motor vehicles on the licensed premises and adjacent grounds, to the extent provided by law.

5.22.160 License Suspension or Revocation.

A. The City shall conduct a hearing to suspend a License for a set period of time and may revoke a License if the City Council determines that a Licensee has:

1. Violated or is not in compliance with this Chapter or other provisions of this Chapter.
2. Refused to allow an inspection of the Licensed Premises as authorized by this Chapter.
3. Knowingly permitted any act upon the premises that is unlawful under the laws of the State or the City.
4. Violated any provision of the Medical Code or Permanent Rules.
5. The Licensee has failed to file required reports or to furnish such other information as required by the Code, the Medical Code or Permanent Rules.
6. The Licensee has made any false statement in the Application for a License or renewal thereof as to any of the facts required to be stated in such Application.

7. Any facts or conditions exist which, if they had existed or had been known to exist at the time of the Application for such License or renewal thereof, would have warranted the City in refusing originally to issue such License or renewal thereof.

In the event the State License is suspended or revoked for any reason the License granted by the City under this Chapter shall automatically be suspended for the same period or revoked without any further action by the City.

B. In determining the action to be taken as provided in this Section, the City Council shall consider the following aggravating and mitigating circumstances:

1. Whether the License has been previously suspended or revoked.
2. Whether the Licensee was warned that the conduct involved could lead to a suspension or revocation.
3. Whether the cause for suspension or revocation involves one or several violations.
4. Whether the violation(s) are technical or substantive in nature.
5. The extent to which the Licensee, Licensee's agents and employees, as opposed to patrons, were involved in the violation(s).
6. The extent to which the Licensee or Licensee's employees had knowledge of the violation(s).
7. Any corrective or remedial action the Licensee has taken to prevent similar violation(s) in the future.
8. Whether the violation(s) involved the commission of a crime, and if so, the degree of crime involved.
9. The extent to which the violation(s) caused personal injuries or property damages.
10. Whether the Licensee has paid damages or made restitution to any person or entity damaged by the violation(s).
11. The extent to which the violations posed a significant risk to the health, safety and welfare of persons on or off of the Licensed Premises.
12. The length of time over which the violation(s) extended.
13. The extent to which the Licensee or Licensee's employees realized a financial gain from the violation(s).
14. The number of employees, patrons, or both involved in the violation(s).
15. The nature and extent of enforcement action taken by the City or any law enforcement to detect the violation(s).
16. The involvement of any persons under twenty one (21) years of age in the violation(s).
17. The extent to which the Licensee or Licensee's employees have attempted to cover up the violation(s), destroy evidence or otherwise hinder the investigation and detection of the violation(s).
18. The extent to which the Licensee and Licensee's employees have acted in good faith.

5.22.170 License Revocation.

A. The City Council may revoke a license if the City Council finds and determines that:

1. The License has previously been suspended within the preceding twelve (12) months;
2. The Licensee gave false information in the material submitted to the City;
3. A Licensee or employee has knowingly allowed consumption of marijuana on the Licensed Premises;
4. A Licensee or an employee has knowingly allowed someone under the age of twenty-one onto the Licensed Premises;
5. A Licensee or an employee knowingly operated the Medical Marijuana Establishment during a period of time when the License was suspended; or
6. A Licensee has commenced operation of its Medical Marijuana Establishment without satisfying all conditions precedent, if any, imposed on the initial grant or renewal of Licensee's License.

B. When the City revokes a License, the revocation shall continue for one (1) year, and the Licensee shall not be issued a License for one (1) year for the premises in question, nor as to any other premises within the City, from the date revocation became effective.

5.22.180 Suspension or Revocation Hearings.

A. The City Council shall conduct hearings for suspension or revocation of Licenses granted pursuant to this Chapter in accordance with the Code and Colorado Revised Statutes. The City Council shall make findings of fact and conclusions concerning the revocation or suspension of a License. The City Council shall transmit a copy of the final findings of fact and conclusion to the Licensee as provided hereafter and to the State.

B. Upon commencement of suspension or revocation proceedings, the City Clerk or its designee shall set a time and place for a hearing of the matter before the City Council.

C. The City Clerk shall give the Licensee timely notice of the time and place of the hearing and the violations asserted. Such notice shall be served personally or by mailing by first- class mail to the last address furnished to the City by the Licensee, at least ten (10) days prior to the hearing. In lieu of such service, or in addition thereto, a copy of such notice may be affixed to the principal entrance of the Licensed Premises.

D. In any hearing the Licensee shall be afforded an opportunity to be heard, present evidence, cross-examine witnesses, and offer evidence in mitigation of any alleged violations.

E. All evidence shall be recorded by electronic recording device.

F. In all such proceedings, the City Attorney shall present evidence and act as the prosecutor with respect to a petition to revoke or suspend the license. The City Council shall have the

discretion to retain special counsel to advise the City Council and to assist with the drafting of a written decision.

5.22.190 Notice of Suspension or Revocation.

A. Upon suspension or revocation of any License required by this Chapter, notice of such suspension or revocation shall be given by personally serving the Licensee with the order of suspension or revocation or by mailing such order to such person by certified or registered mail at the business address of the Licensee as shown on the License or at the address of the designated agent. In lieu of such service, or in addition thereto, a copy of such order may be affixed to the principal entrance of the Licensed Premises.

B. The order shall be effective immediately upon service of notice thereof unless the order provides otherwise. Service of such order shall be complete upon mailing or posting.

C. A decision of City Council is reviewable only by the Delta County District Court under C.R.C.P. 106(a)(4). There shall be no stay of execution pending a review by the Court except by Court order.

5.22.200 Effect of Suspension or Revocation. Upon the effective date of suspension or revocation of any License, the Licensee shall immediately cease and desist from further operation or activity.

5.22.210 Summary Suspension. When the conduct of any Licensee, agent or employee is so inimical to the public health, safety and general welfare as to constitute a nuisance or hazard and thus give rise to an emergency, the City Clerk shall have the authority to summarily order the cessation of business and the closure of the Licensed Premises pending a hearing on the question of whether to suspend or revoke the license. Unless waived by the Licensee in writing, the City Council shall conduct a hearing upon the summary order and the activity giving rise to such order within fifteen (15) days after the City Clerk has acted. The order shall state the grounds for its issuance and shall give notice of the hearing and shall be served upon the affected person in the manner prescribed herein. At such hearing the Licensee shall show cause why the summary suspension should not be made a final order of suspension or revocation.

5.22.220 Performance Standards for Medical Marijuana Establishments

A. Hours of Operation. All Medical Marijuana Establishments may operate from the hours of 9:00am to 9:00pm, Monday through Sunday.

B. Location of Licensed Premises. Medical Marijuana Establishments shall be located only in areas of the City as allowed in Chapter 17. No Medical Marijuana Establishment shall be located:

1. Within one thousand feet (1,000') of any School, state licensed day care facility, church, Park, or law enforcement or court facility in existence as of the time of the public hearing before City Council on the initial License Application. The distance shall be computed by a straight line measurement from the nearest property line of the property on which the use described

above exists to the nearest structure line of the premises housing the Medical Marijuana Establishment; or

2. In any zone district not specifically permitted by right or as a conditional review use by Chapter 17.

C. Qualifications of Applicants. In addition to the requirements of the Medical Code and Permanent Rules, the Applicant and Licensee shall:

1. Demonstrate that they possess the qualities of honesty, fairness, candor, trustworthiness and responsibility and that they do not have a history of prior misconduct. Prior acts of misconduct include, but are not necessarily limited to: criminal convictions, criminal or other formal charges of fraud, theft, or an act of moral turpitude; and

2. Not be in default under the provisions of this Chapter or Chapters 3.04, 5.08, 5.10, 9.04, or 17.04 of the City Code or be in default of any agreement with the City.

D. Miscellaneous. In addition, all Medical Marijuana Establishments shall comply with the following requirements:

1. Any applicable City business/sales tax license shall be obtained, and all applicable state, county, city, and special district sales taxes shall be collected and remitted in a timely manner;

2. A sign permit shall be obtained from the City for all signage. All exterior signage associated with a Medical Marijuana Establishment will meet the standards established in the Code, the Medical Code and the Permanent Rules;

3. No Licensee shall allow the smoking in public or consumption of any Medical Marijuana on the Licensed Premises;

4. All sales and distribution of Medical Marijuana shall occur only upon the Licensed Premises unless distribution is done by a person or business with a valid medical marijuana transporter license issued by the Colorado Marijuana Enforcement division;

5. No Licensed Premises shall be managed by any person other than the Licensee or the establishment manager listed on the Application. Such Licensee or establishment manager shall be responsible for all activities that occur within the Licensed Premises;

6. There shall be posted in a conspicuous location in each Medical Marijuana Establishment legible signs as required by the Code, including but not limited to:

(a) A warning that the use of marijuana may impair a person's ability to drive a motor vehicle or operate machinery, and that it is illegal under state law to drive a motor vehicle or operate machinery when under the influence of or impaired by marijuana;

(b) A warning that loitering in or around a Medical Marijuana Establishment is prohibited by state law;

(c) A warning that possession and distribution of marijuana is a violation of federal law;

(d) A warning that consumption of marijuana within a Medical

Marijuana Establishment is prohibited;

(e) A warning that the smoking or consumption of marijuana in public is prohibited by state law;

(f) A notice that no-one under the age of twenty one (21) is allowed on the Licensed Premises;

(g) The name and contact information for the owner or owners and any business manager of the Medical Marijuana Establishment;

(h) The License and the State License; and

(i) All sales tax/business licenses.

5.22.230 Injunction. Any person who operates or causes to be operated a Medical Marijuana Establishment without a License is subject to suit for injunction as well as criminal prosecution. Nothing in this Section shall limit any other remedy available to the City under applicable law.

5.22.240 Prohibited Acts - Penalty. Any person who violates any provision of this Chapter, or who fails to perform an act required by any provision of this Chapter, commits a Class A municipal offense. Each day that a violation continues shall be considered a separate violation.

Section 2: Severability. Each subsection of this Ordinance is an independent subsection and a holding of any subsection or part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other subsection or part thereof.

ADOPTED ON FIRST READING AND ORDERED PUBLISHED THIS 18th DAY OF DECEMBER, 2018.

Mayor

ATTEST:

City Clerk

ADOPTED ON SECOND AND FINAL READING AND ORDERED PUBLISHED THIS ____ DAY OF _____, 2019.

Mayor

ATTEST:

City Clerk