



## Lone Tree City Council Amended Agenda Tuesday, February 18, 2014

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**Meeting Location:** City Council Meeting Room, Lone Tree Civic Center, 8527 Lone Tree Parkway.  
**Meeting Procedure:** The Lone Tree City Council and staff will meet in a public Study Session at 4:30 p.m. At 6:00 p.m. and following the meeting, if necessary, the Council Meeting will adjourn and convene in Executive Session. If an Executive Session is not necessary, Council will recess for dinner. The Regular Session will be convened at 7:00 p.m. Study Sessions and Regular Sessions are open to the public, Executive Sessions are not. Comments from the public are welcome at these occasions: 1. Public Comment (brief comments on items not scheduled for a public hearing) 2. Public Hearings. Contact the City Clerk if special arrangements are needed to attend (at least 24 hours in advance).

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### 4:30 pm Study Session Agenda

1. 2014 Arts Commission Plan
  2. What's Happening in RidgeGate – Current Projects and Prospects
  3. Election Legislation Update
  4. Approval of Household Hazardous Waste Collection Contract Amendment
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### 6:00pm Executive Session Agenda

1. Roll Call
  2. Executive Session
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### 7:00pm Regular Session Agenda

3. Opening of Regular Meeting/Pledge of Allegiance
  4. Amendments to the Agenda and Adoption of the Agenda
  5. Conflict of Interest Inquiry
  6. Public Comment
  7. Announcements
  8. Consent Agenda
    - a. Minutes of the February 4, 2014 Regular Meeting
    - b. Claims for the Period of January 27 – February 10, 2014
    - c. Treasurer's Report December 2013
    - d. Approval of Household Hazardous Waste Collection Contract Amendment
  9. Administrative Matters
    - a. **Public Hearing: Ordinance 14-01, AMENDING MUNICIPAL CODE PROVISIONS RELATED TO MARIJUANA OFFENSES DUE TO PASSAGE OF COLORADO CONSTITUTIONAL AMENDMENT 64** (Second Reading)
    - b. **Public Hearing: Ordinance 14-02, SUBMITTING A CHARTER AMENDMENT TO CITY REGISTERED ELECTORS AT THE MAY 6, 2014 REGULAR ELECTION, AMENDING THE CITY OF LONE TREE HOME RULE CHARTER TO REQUIRE A MAJORITY VOTE FOR THE ELECTION OF MAYOR AND PROVIDING FOR RUNOFF ELECTIONS FOR MAYOR** (Second Reading)
    - c. ~~Ordinance 14-03, AMENDING THE MUNICIPAL CODE TO MODIFY THE DISTANCE RESTRICTION ON APPLICATIONS FOR CERTAIN NEW LIQUOR LICENSES, PURSUANT TO THE COLORADO LIQUOR CODE~~ (First Reading)
    - d. **Resolution 14-04, CALLING FOR THE REGULAR BIENNIAL CITY ELECTION FOR THE CITY OF LONE TREE**
    - e. **Resolution 14-05, REAPPOINTING REPRESENTATIVES TO THE DOUGLAS COUNTY HOUSING PARTNERSHIP**
  10. Council Comments
  11. Adjournment
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**MINUTES OF A REGULAR MEETING  
OF THE COUNCIL OF THE  
CITY OF LONE TREE  
HELD  
February 4, 2014**

A regular meeting of the Council of the City of Lone Tree was held on Tuesday, February 4, 2014, at 7:00 p.m., at the Lone Tree City Council Chambers located at 8527 Lone Tree Parkway, Lone Tree, Colorado 80124.

Attendance

In attendance were:

James D. Gunning, Mayor  
Jacqueline Millet, Mayor Pro Tem  
Harold Anderson, Council Member  
Kim Monson, Council Member  
Susan Squyer, Council Member

Also in attendance were:

Seth Hoffman, City Manager  
Jennifer Pettinger, City Clerk  
Chief Jeffery Streeter, Lone Tree Police Department  
Steve Hebert, Community Development Director  
Neil Rutledge, Assistant City Attorney, White, Bear and Ankele, P.C.  
John Cotten, Public Works Director, TST, Inc.  
Kristin Baumgartner, Finance Director

Call to Order

Mayor Gunning called the meeting to order at 7:05 p.m., and observed that a quorum was present.

Pledge of Allegiance

Mayor Gunning led those assembled in reciting the Pledge of Allegiance.

Amendments to the Agenda

There were no amendments to the agenda.

Conflict of Interest

There was no conflict of interest.

Public Comment

There was no public comment.

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Announcements

Mayor Gunning announced upcoming events.

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Consent Agenda

Mayor Gunning noted the following items on the Consent Agenda, which consisted of:

- § *Minutes of the January 21, 2014 Regular Meeting*
- § *Claims for the period of January 13-27, 2014*

Council Member Squyer moved, Council Member Anderson seconded, to approve the Consent Agenda. The motion passed unanimously.

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Public Works

*Approval of Change Order #1 for Brannan Sand & Gravel Company LLC's Contract for 2013 Asphalt Overlay Program*

John Cotten, Public Works Director, introduced the item.

Council Member Millet moved, Council Member Monson seconded, to approve Change Order #1 for Brannan Sand & Gravel Company LLC's Contract for 2013 Asphalt Overlay Program in the amount of \$106,000.00 and to increase the contract time by 100 days. The motion passed unanimously by those members present.

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Administrative Matters

*Public Hearing: Retail Liquor License Application for BWS Sales, LLC d/b/a Chateau Liquors (10016 Commons Street)*

Mayor Gunning opened the public hearing at 7:11 p.m.

Jennifer Pettinger, City Clerk, introduced the item and introduced Mary Ann Baldwin, Kimberly Baldwin, Jean Baldwin, Applicants, Jim Beimford, Applicant's Counsel, Kelly Pietrs, petitioner. Mr. Beimford and Ms. Jean Baldwin spoke about the application and answered questions from Council.

Mayor Gunning opened the public hearing for comment at 7:14 p.m.

There was no public comment.

The public hearing was closed at 7:14 p.m.

Mayor Pro Tem Millet moved, Council Member Monson seconded, to approve a new Retail Liquor License for BWS Sales, LLC d/b/a Chateau Liquors at 10016 Commons Street. The motion passed unanimously.

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*Public Hearing: Hotel and Restaurant Liquor License Application for Pisco Sour Restaurant and Lounge Corporation d/b/a Pisco Sour Restaurant and Lounge (9234 Park Meadows Drive, Suite 100)*

Mayor Gunning opened the public hearing at 7:22 p.m.

Jennifer Pettinger, City Clerk, introduced the item and introduced Aldo Castillo and Juana Chavez, applicants and Max Scott, petitioner. Mr. Castillo spoke about restaurant.

Mayor Gunning opened the public hearing for comment at 7:25 p.m.

There was no public comment.

The public hearing was closed at 7:25 p.m.

Council Member Monson moved, Council Member Anderson seconded, to approve a new Hotel and Restaurant Liquor License for Pisco Sour Restaurant and Lounge Corporation d/b/a Pisco Sour Restaurant and Lounge at 9234 Park Meadows Drive, Suite 100. The motion passed unanimously.

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***ORDINANCE 14-01, AMENDING MUNICIPAL CODE PROVISIONS RELATED TO MARIJUANA OFFENSES DUE TO PASSAGE OF COLORADO CONSTITUTIONAL AMENDMENT 64 (First Reading)***

Neil Rutledge, Assistant City Attorney, introduced the item.

Council Member Anderson moved, Council Member Squyer seconded, to approve **ORDINANCE 14-01, AMENDING MUNICIPAL CODE PROVISIONS RELATED TO MARIJUANA OFFENSES DUE TO PASSAGE OF COLORADO CONSTITUTIONAL AMENDMENT 64** on First Reading. The motion passed unanimously.

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***ORDINANCE 14-02, SUBMITTING A CHARTER AMENDMENT TO CITY REGISTERED ELECTORS AT THE MAY 6, 2014 REGULAR ELECTION, AMENDING THE CITY OF LONE TREE HOME RULE CHARTER TO REQUIRE A MAJORITY VOTE FOR THE ELECTION OF MAYOR AND PROVIDING FOR RUNOFF ELECTIONS FOR MAYOR (First Reading)***

Neil Rutledge, Assistant City Attorney, introduced the item.

Council Member Squyer moved, Council Member Monson seconded, to approve **ORDINANCE 14-02, SUBMITTING A CHARTER AMENDMENT TO CITY REGISTERED ELECTORS AT THE MAY 6, 2014 REGULAR ELECTION, AMENDING THE CITY OF LONE TREE HOME RULE CHARTER TO REQUIRE A MAJORITY VOTE FOR THE ELECTION OF MAYOR AND PROVIDING FOR RUNOFF ELECTIONS FOR MAYOR** on First Reading. The motion passed unanimously.

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**Resolution 14-03, AFFIRMING THE LONE TREE CITY COUNCIL VOTING DISTRICTS ESTABLISHED BY ORDINANCE NO. 12-04**

Jennifer Pettinger, City Clerk, introduced the item.

Mayor Pro Tem Millet moved, Council Member Squyer seconded, to approve **Resolution 14-03, AFFIRMING THE LONE TREE CITY COUNCIL VOTING DISTRICTS ESTABLISHED BY ORDINANCE NO. 12-04**. The motion passed unanimously.

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Adjournment

There being no further business, Mayor Gunning adjourned the meeting at 7:38 p.m.

Respectfully submitted,

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Jennifer Pettinger, CMC, City Clerk

**FINDINGS AND REPORT TO STATE LICENSING AUTHORITY BY THE  
CITY COUNCIL OF LONE TREE ACTING AS THE  
LOCAL LICENSING AUTHORITY ON THE APPLICATION FOR A  
RETAIL LIQUOR STORE LICENSE**

**BWS Sales, LLC d/b/a Chateau Liquors**

A public hearing was held by the City Council of Lone Tree, State of Colorado, acting as Local Licensing Authority at approximately 7:00 p.m. on Tuesday, February 4, 2014 at 8527 Lone Tree Parkway, Lone Tree, Colorado, on the application of BWS Sales, LLC d/b/a Chateau Liquors, 10016 Commons Street, Lone Tree, Colorado 80124.

At said hearing, the following Members of the Council were present:

Mayor James D. Gunning  
Mayor Pro Tem Jackie Millet  
Council Member Harold Anderson  
Council Member Kim Monson  
Council Member Susan Squyer

Also present were:

Jennifer Pettinger, City Clerk  
Jean Baldwin, Applicant  
Mary Ann Baldwin, Applicant  
Kimberly Baldwin, Applicant  
Jim Beimford, Applicant's Attorney  
Kelly Pietrs, Petitioner

The Honorable Mayor James D. Gunning presided. The hearing was duly convened to consider the Application and conduct a public hearing thereon.

City Clerk, Jennifer Pettinger gave a brief presentation concerning the application and provided evidence of posting to the Council. Ms. Pettinger noted that the City Council was in receipt of a packet of information which contained copies of: the license application, individual history records, red-lined drawing of the premises, lease agreement, articles of organization and petition results. She also noted that staff has reviewed all the documents including their business license, Certificate of Good Standing, the affidavit of posting, and the affidavit of publication. She directed that information be made a part of the record. Ms. Pettinger stated the petitions supporting the application were reviewed and found to be in accordance with and in conformity with the City of Lone Tree Liquor and Fermented Malt Beverage Regulations and were accepted into evidence by the Authority.

Ms. Pettinger introduced Jean Baldwin, Applicant, Mary Ann Baldwin, Applicant, Kimberly Baldwin, Applicant, Jim Beimford, Applicant's Attorney and Kelly Pietrs, Petitioner. Jean Baldwin and Jim Beimford spoke about the application.

Mayor Gunning opened the hearing for public testimony. No one came forward.

Following a brief discussion by the City Council, the hearing was closed to public testimony.

The City Council, acting as the Local Licensing Authority, having fully considered the application and testimony submitted by the Applicant, and the other evidence adduced at the hearing, NOW FINDS as follows:

### **BWS Sales, LLC d/b/a Chateau Liquors**

#### **Findings and Report to the State**

1. The public hearing held with respect to said Application on February 4, 2014, was duly convened and the Council has jurisdiction to consider the Application as the Local Licensing Authority.
2. Applicant seeks approval of an application for a Retail Store Liquor License at 10016 Commons Street, Lone Tree, Colorado 80124. The Application was submitted on a form prescribed by the State Licensing Authority pursuant to statute, and said application appears to be complete in all material respects. The required fees accompanied the application.
3. The Council has reviewed the Individual History Records of the owners and the managers. Council finds that the Applicant has satisfied the requirements of the Colorado Liquor Code and Regulations with respect to character, record, and reputation.
4. The Applicant has evidenced possession of the subject property through a five year lease agreement entered into on December 13, 2013.
5. The premise was posted in accordance with the law, for a period of not less than ten consecutive days prior to the date of said public hearing on the application, and published notice was accomplished by publication in a newspaper of general circulation in Douglas County.
6. Petitions containing 142 valid signatures in favor of and 0 valid signatures in opposition to the issuance of the license were presented to and considered by the Council.
7. No one appeared in opposition.

The City Council, acting as the Local Licensing Authority, having considered and weighed the foregoing, as well as the facts and evidence adduced by the Council's investigation,

expressions of opinion as to the needs and desires of the inhabitants of the neighborhood contained in the aforementioned Petitions and all other facts, data and testimony, NOW FINDS that the Applicant has demonstrated, with respect to the application, that the needs and desires of the neighborhood are not adequately being served at this time.

Accordingly, the City Council hereby affirms its approval of the application of BWS Sales, LLC d/b/a Chateau Liquors, 10016 Commons St., Lone Tree, Colorado 80124.

**The City Council hereby authorizes and directs the Liquor Licensing Administrator to submit the necessary report and approved application to the State Licensing Authority in accordance with the law.**

**BY ORDER OF THE CITY COUNCIL OF THE CITY OF LONE TREE, COLORADO, acting as Local Licensing Authority.**

**CITY OF LONE TREE:**

By: \_\_\_\_\_  
Jennifer Pettinger  
Liquor License Administrator

**Date: February 4, 2014**

**FINDINGS AND REPORT TO STATE LICENSING AUTHORITY BY THE  
CITY COUNCIL OF LONE TREE ACTING AS THE  
LOCAL LICENSING AUTHORITY ON THE APPLICATION FOR A  
HOTEL & RESTAURANT LIQUOR LICENSE**

**Pisco Sour Restaurant and Lounge Corporation d/b/a  
Pisco Sour Restaurant and Lounge**

A public hearing was held by the City Council of Lone Tree, State of Colorado, acting as Local Licensing Authority at approximately 7:00 p.m. on Tuesday, February 4, 2014 at 8527 Lone Tree Parkway, Lone Tree, Colorado, on the application of Pisco Sour Restaurant and Lounge Corporation d/b/a Pisco Sour Restaurant and Lounge, 9234 Park Meadows Drive, Suite 100, Lone Tree, Colorado 80124.

At said hearing, the following Members of the Council were present:

Mayor James D. Gunning  
Mayor Pro Tem Jackie Millet  
Council Member Harold Anderson  
Council Member Kim Monson  
Council Member Susan Squyer

Also present were:

Jennifer Pettinger, City Clerk  
Aldo Castillo, Applicant  
Juana Chavez, Applicant  
Max Scott, Petitioner

The Honorable Mayor James D. Gunning presided. The hearing was duly convened to consider the Application and conduct a public hearing thereon.

City Clerk, Jennifer Pettinger gave a brief presentation concerning the application and provided evidence of posting to the Council. Ms. Pettinger noted that the City Council was in receipt of a packet of information which contained copies of: the license application, individual history records, red-lined drawing of the premises, lease agreement, articles of organization and petition results. She also noted that staff has reviewed all the documents including their business license, Certificate of Good Standing, the affidavit of posting, and the affidavit of publication. She directed that information be made a part of the record. Ms. Pettinger stated the petitions supporting the application were reviewed and found to be in accordance with and in conformity with the City of Lone Tree Liquor and Fermented Malt Beverage Regulations and were accepted into evidence by the Authority.

Ms. Pettinger introduced Aldo Castillo and Juana Chavez, Applicants, and Max Scott, Petitioner. Aldo Castillo spoke about the application.

Mayor Gunning opened the hearing for public testimony. No one came forward.

Following a brief discussion by the City Council, the hearing was closed to public testimony.

The City Council, acting as the Local Licensing Authority, having fully considered the application and testimony submitted by the Applicant, and the other evidence adduced at the hearing, NOW FINDS as follows:

**Pisco Sour Restaurant and Lounge Corporation d/b/a Pisco Sour Restaurant and Lounge**  
Findings and Report to the State

2. The public hearing held with respect to said Application on February 4, 2014, was duly convened and the Council has jurisdiction to consider the Application as the Local Licensing Authority.
8. Applicant seeks approval of an application for a Hotel & Restaurant Liquor License at 9234 Park Meadows Drive, Suite 100, Lone Tree, Colorado 80124. The Application was submitted on a form prescribed by the State Licensing Authority pursuant to statute, and said application appears to be complete in all material respects. The required fees accompanied the application.
9. The Council has reviewed the Individual History Records of the owners and the managers. Council finds that the Applicant has satisfied the requirements of the Colorado Liquor Code and Regulations with respect to character, record, and reputation.
10. The Applicant has evidenced possession of the subject property through a five year lease agreement entered into on December 9, 2013.
11. The premise was posted in accordance with the law, for a period of not less than ten consecutive days prior to the date of said public hearing on the application, and published notice was accomplished by publication in a newspaper of general circulation in Douglas County.
12. Petitions containing 207 valid signatures in favor of and 3 valid signatures in opposition to the issuance of the license were presented to and considered by the Council.
13. No one appeared in opposition.

The City Council, acting as the Local Licensing Authority, having considered and weighed the foregoing, as well as the facts and evidence adduced by the Council's investigation, expressions of opinion as to the needs and desires of the inhabitants of the neighborhood

contained in the aforementioned Petitions and all other facts, data and testimony, NOW FINDS that the Applicant has demonstrated, with respect to the application, that the needs and desires of the neighborhood are not adequately being served at this time.

Accordingly, the City Council hereby affirms its approval of the application of Pisco Sour Restaurant and Lounge Corporation d/b/a Pisco Sour Restaurant and Lounge, 9234 Park Meadows Drive, Suite 100, Lone Tree, Colorado 80124.

**The City Council hereby authorizes and directs the Liquor Licensing Administrator to submit the necessary report and approved application to the State Licensing Authority in accordance with the law.**

**BY ORDER OF THE CITY COUNCIL OF THE CITY OF LONE TREE, COLORADO, acting as Local Licensing Authority.**

**CITY OF LONE TREE:**

By: \_\_\_\_\_  
Jennifer Pettinger  
Liquor License Administrator

**Date: February 4, 2014**



CITY OF LONE TREE  
STAFF REPORT

**TO: Mayor Gunning and City Council**

**FROM: John P. Cotten, P.E.**

**DATE: February 11, 2014**

**FOR: February 18th Council Meeting**

**SUBJECT: 2014 Hazardous Waste Contract Amendment**

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Summary

The existing contract with WM Curbside for residential hazardous waste pickup includes a clause that allows for the increase in charges once per year based on the Denver Consumer Price Index (CPI). Waste Management has submitted a request to increase the per-pickup charge from \$107.00 to \$110.00, an increase of 2.8%, which was the CPI for the first half of 2013.

Cost

The cost for the service will increase by \$3.00 per pickup. Based on the 36 pickups last year, this would cost an additional \$108.00 for 2014.

Suggested Motions

I move to approve the Amendment to the Agreement with Waste Management for hazardous waste collection.

Background

We have had no complaints from any of the residents and the service appears to be well used.



**At Your Door Special Collection**

December 9, 2013

City of Lone Tree  
Department of Public Works  
9220 Kimmer Drive, Suite 100  
Lone Tree, CO 80124

Attention: Mr. John Cotton, Director

**RE: CITY OF LONE TREE HOUSEHOLD HAZARDOUS WASTE COLLECTION  
CONTRACT AMENDMENT**

This letter is being written as a legal and binding modification to amend the City's current agreement, as assigned, with WM Curbside, LLC dated January 1, 2011. This Amendment and modification of Contract Agreement shall be effective under the same terms and conditions except as described below:

This Amendment is effective as of January 1<sup>st</sup>, 2014 through December 31, 2014 and shall exist under the same terms and conditions.

The cost per dwelling unit will increase from \$107.00 per month to \$110.00 per month. This is an increase of 2.8% or \$3.00 per collection based on the current CPI for the area.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the dates below written.

Sincerely,

Paul Schlich  
Sales Manager

**APPROVED AND AGREED:**

\_\_\_\_\_  
Bill Caesar, WM Curbside, LLC      Date      City of Lone Tree      Date

At Your Door Special Collection is provided by WM Curbside, LLC, a Waste Management company.  
~5101 East La Palma Avenue, Anaheim, CA 92807 ~ 714-223-3937 x 107 tel ~ 866-373-3602 fax



CITY OF LONE TREE  
STAFF REPORT

**TO: Mayor Gunning and City Council**

**FROM: Neil Rutledge**

**DATE: January 21, 2014**

**FOR: February 4, 2014**

**SUBJECT: Ordinance 14-01 Amending Municipal Code Provisions Related to Marijuana Offenses Due to Passage of Colorado Constitutional Amendment 64**

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Summary

This Ordinance updates and reorganizes the provisions of the General Offenses Chapter of the Municipal Code concerning offenses related to marijuana as a result of the passage of Amendment 64.

Cost

There is no cost to the City.

Suggested Motion

I move to approve Ordinance 14-01, amending Municipal Code provisions related to marijuana offenses due to passage of Amendment 64.

Background

Amendment 64 allows a person 21 or older to legally use and possess one ounce or less of marijuana, as long as it is not consumed or displayed “openly and publicly.” It also allows for people to grow for personal use up to six marijuana plants in their home or other enclosed, locked space. Possession of marijuana accessories is also made legal for those 21 and older.

The Colorado General Assembly, at its last legislative session, addressed the wholesale and retail sales of marijuana, as well as its commercial cultivation. It also set driving standards for impairment and prohibited open containers of marijuana in vehicles. Unfortunately, it did not address many of the other issues related to legalization. What further regulation will be passed at the upcoming session is not clear at this time.

Local jurisdictions, including Lone Tree, are left with the task of amending their ordinances to reflect the current state of the law and filling in the gaps in the law that the state has not addressed. Some jurisdictions are taking a “wait and see” approach, while

others are attempting to address some or all of these issues. Unfortunately, this results in regulations that differ from city to city.

In Lone Tree, legislation has been passed that prohibits commercial recreational and medical marijuana establishments. The passage of Amendment 64 necessitates other changes and additions to the Municipal Code. Some suggested legislation is straight-forward and seems uncontroversial, such as prohibiting the use of marijuana in public places, although the definition of “openly and publicly” is a thorny issue.

The proposed legislation includes changes to ordinances for possession of marijuana, marijuana accessories, display and consumption of marijuana, providing marijuana to underage persons, and prohibiting open containers of marijuana in vehicles.

The City Attorney’s Office continues to monitor the issues related to implementation of recreational marijuana laws and will keep the City Council apprised of developments and concerns that the Council may wish to address in the future.

**ORDINANCE OF THE  
CITY OF LONE TREE**

**Series of 2014**

**Ordinance No. 14-01**

**AN ORDINANCE AMENDING THE MUNICIPAL CODE PROVISIONS RELATED TO MARIJUANA OFFENSES DUE TO PASSAGE OF COLORADO CONSTITUTIONAL AMENDMENT 64**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LONE TREE, COLORADO:**

**ARTICLE 1 – AUTHORITY**

The City of Lone Tree (the "City") is a home rule municipality operating under the Lone Tree Home Rule Charter (the "Charter") adopted on May 5, 1998 and a Municipal Code (the "Code"), codified and adopted on December 7, 2004. Pursuant to the Charter, the Municipal Code and the authority given home rule cities, the City may adopt and amend Ordinances.

**ARTICLE 2 – FINDINGS OF FACT**

- A. The City has broad authority to exercise its police powers to promote and protect the health, safety and welfare of the community and its inhabitants.
- B. The voters of Colorado approved Amendment 64 at the 2012 general election, creating a new Section 16, Article XVIII of the Colorado Constitution, which authorizes the limited cultivation, possession and use of one ounce or less of marijuana by persons twenty-one years of age and older.
- C. Although Amendment 64 permits the personal use of marijuana and marijuana products by persons twenty-one (21) years of age or older, Amendment 64 provides that nothing contained in the amendment shall permit consumption that is "conducted openly and publicly or in a manner that endangers others."
- D. The City Council wishes to update its current laws regarding marijuana and related matters in order to acknowledge the impact of Amendment 64, ensure the responsible use of marijuana and safeguard underage persons.
- E. The City Council also recognizes the constitutional protections afforded to individuals by Amendment 64 and the Colorado Medical Marijuana Code, regarding recreational and

medical marijuana, and desires to affirm these constitutional protections as they may be interpreted by the General Assembly from time to time.

### **ARTICLE 3 – SAFETY CLAUSE**

The City Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare.

### **ARTICLE 4 – REPEAL AND ADOPTION**

Article XI of Chapter 10 of the Municipal Code, Offenses Related to Drugs and Drug Paraphernalia, is hereby repealed in its entirety and re-adopted as follows:

## **ARTICLE XI**

### **Offenses Relating to Marijuana, Drugs and Drug Paraphernalia**

#### **Sec. 10-11-10. Definitions.**

For purposes of this Article, the following terms shall have the following meanings:

*Colorado Medical Marijuana Code* means Title 12, Article 43.3, Section 12-43.3-101, et seq., C.R.S.

*Marijuana* means all parts of the plant of the genus *cannabis* whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate. “Marijuana” does not include industrial hemp, nor does it include fiber produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

*Marijuana accessories* means any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana into the human body.

*Marijuana concentrate* means hashish, tetrahydrocannabinols, or any alkaloid, salt, derivative, preparation, compound, or mixture, whether natural or synthesized, of tetrahydrocannabinols.

*Marijuana cultivation facility* means an entity licensed to cultivate, prepare, and package marijuana and sell marijuana to retail marijuana stores, to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers.

*Marijuana establishment* means a marijuana cultivation facility, a marijuana testing facility, a marijuana product manufacturing facility or a retail marijuana store.

*Marijuana product manufacturing facility* means an entity licensed to purchase marijuana, manufacture, prepare, and package marijuana products; and sell marijuana and marijuana products to other marijuana product manufacturing facilities and to retail marijuana stores, but not to consumers.

*Marijuana products* means concentrated marijuana products and marijuana products that are comprised of marijuana and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures.

*Marijuana testing facility* means an entity licensed to analyze and certify the safety and potency of marijuana.

*Medical marijuana* means marijuana that is grown and sold for a purpose authorized by Section 14 of Article XVIII of the Colorado Constitution.

*Medical marijuana center* means a person authorized to be licensed to operate a business as described in the Colorado Medical Marijuana Code that sells medical marijuana to registered patients or primary caregivers as defined in Section 14 of Article XVIII of the Colorado Constitution, but is not a primary caregiver, and which a municipality is authorized to prohibit as a matter of law.

*Medical marijuana-infused products manufacturer* means a person licensed pursuant to the Colorado Medical Marijuana Code to operate a business known as a medical marijuana-infused products manufacturing license, and which a municipality is authorized to prohibit as a matter of law.

*Openly* means not protected from unaided observation lawfully made from outside its perimeter not involving physical intrusion.

*Optional premises cultivation operation* means a person licensed pursuant to the Colorado Medical Marijuana Code to operate a business known as an optional premises grow facility in order to grow and cultivate marijuana for a purpose authorized by Section 14 of Article XVIII of the Colorado Constitution, and which a municipality is authorized to prohibit as a matter of law.

*Patient* means a person who has a debilitating medical condition.

*Primary caregiver* means a person, other than the patient and the patient's physician, who is eighteen years of age or older and has significant responsibility for managing the well-being of a patient who has a debilitating medical condition.

*Publicly* means an area that is open to general access without restriction.

*Retail marijuana store* means an entity licensed to purchase marijuana from marijuana cultivation facilities and marijuana and marijuana products from marijuana product manufacturing facilities and to sell marijuana and marijuana products to consumers.

*Person* means a natural person, partnership, association, company, corporation, limited liability company, organization or any other legal or commercial entity, or a manager, agent, owner, director, servant, officer, or employee thereof.

### **Sec. 10-11-20. Possession of marijuana.**

(a) It is unlawful for any person to possess marijuana, except to the extent provided for personal use of marijuana by persons twenty-one (21) years of age or older by Article XVIII, Section 16 of the Colorado Constitution. Transferring or dispensing of marijuana for no consideration shall be deemed possession and not dispensing or sale thereof. All violations of this Section involving two (2) ounces or less of marijuana may be brought in Municipal Court.

(b) It is unlawful for any person under the age of twenty-one (21) years to obtain, purchase or request, or attempt to obtain or purchase, marijuana, either directly or through an intermediary, by any means, including misrepresentation of age.

(c) It is unlawful for any person twenty-one (21) years of age or older to possess more than six (6) marijuana plants.

(d) Any person who violates any provision of this Section commits a noncriminal violation, and upon conviction thereof, shall be punished by a fine not exceeding one hundred dollars (\$100.00).

(e) Possession of marijuana for medical use in compliance with both Article XVIII, Section 14 of the Colorado Constitution and the Colorado Medical Marijuana Code shall be an affirmative defense to prosecution under this Section.

### **Sec. 10-11-30. Possession of drug paraphernalia.**

(a) Possession prohibited. It is unlawful to knowingly possess drug paraphernalia.

(b) As used in this Section, *drug paraphernalia* means all equipment, products and materials of any kind which are used, intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of the law. *Drug paraphernalia* includes, but is not limited to:

(1) Testing equipment used, intended for use or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances.

(2) Scales and balances used, intended for use or designed for use in weighing or measuring controlled substances.

(3) Separation gins and sifters used, intended for use or designed for use in removing twigs and seeds from or in otherwise cleaning or refining marijuana.

(4) Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding controlled substances.

(5) Capsules, balloons, envelopes, baggies, bindles and other containers used, intended for use or designed for use in packaging small quantities of controlled substances.

(6) Containers or other objects used, intended for use or designed for use in storing or concealing controlled substances.

(7) Objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:

- a. Water pipes;
- b. Carburetion tubes and devices;
- c. Smoking and carburetion masks;
- d. Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette that has become too small or too short to be held in the hand;
- e. Miniature cocaine spoons and cocaine vials;
- f. Chamber pipes;
- g. Carburetor pipes;
- h. Electric pipes;
- i. Air-driven pipes;
- j. Bongs; or
- k. Ice pipes or chillers.

(c) Factors determining drug paraphernalia. In determining whether an object is drug paraphernalia, the Court, in its discretion, may consider, in addition to all other relevant factors, the following:

- (1) Statements by an owner or by anyone in control of the object concerning its use.
- (2) The proximity of the object to controlled substances.

- (3) The existence of any residue of controlled substance on the object.
- (4) Instructions, oral or written, provided with the object concerning its use.
- (5) Descriptive materials accompanying the object which explain or depict its use.
- (6) National or local advertising concerning its use.
- (7) The existence and scope of legal uses for the object in the community.
- (8) Expert testimony concerning its use.

(d) The provisions of this Section shall not apply to personal use of "Marijuana Accessories" by any person that is twenty-one years of age or older to the extent provided by Article XVIII, Section 16(3) of the Colorado Constitution.

(e) Any person who violates any provision of this Section commits a noncriminal violation and, upon conviction thereof, shall be punished by a fine not exceeding one hundred dollars (\$100.00).

**Sec. 10-11-40. Substances releasing toxic vapors.**

(a) Use prohibited. No person shall knowingly smell or inhale the fumes of toxic vapors for the purpose of causing a condition of euphoria, excitement, exhilaration, stupefaction or dulled senses or nervous system, or possess, buy or use any such substance for the purpose of violating or aiding another to violate this Section.

(b) Sales or furnishing to minors. It is unlawful to knowingly sell, give, deliver or furnish any substance releasing toxic vapors to any child under the age of eighteen (18) years without the personal or written consent of a parent or guardian of such child, except when the sale of one (1) tube of glue is made simultaneously with or as part of a sale, purchase or delivery of a hobby or model kit.

**Sec. 10-11-50. Display or consumption of marijuana.**

(a) It is unlawful for any person to display, consume, use, transfer or distribute marijuana openly and publicly or in a manner that endangers others.

(b) It is unlawful for any person to display, consume, use, transfer or distribute marijuana:

(1) In or upon any public way or public right of way;

(2) In or upon any property or building owned, operated, leased or maintained by the City or the State, or any political subdivision or agency thereof;

(3) In or upon any property or any building that is owned, leased, used by or open to the public; or

(4) In or upon those portions of any private property upon which the public has an express or implied license to enter and remain.

(c) Any person who violates any provision of this Section commits a noncriminal violation, and upon conviction thereof, shall be punished by a fine not exceeding one hundred dollars (\$100.00).

**Sec. 10-11-60. Marijuana; procurement or sales to underage person.**

(a) It is unlawful for any person to provide, serve, deliver or transfer marijuana or marijuana products, with or without remuneration, to any person under the age of twenty-one (21) years.

(b) Any person who violates any provision of this Section commits a noncriminal violation, and upon conviction thereof, shall be punished by a fine not exceeding five hundred dollars (\$500.00).

**Sec. 10-11-70. Medical marijuana operations prohibited.**

(a) Prohibition. No person shall establish, operate, cause to be operated or permit to be operated a medical marijuana center, an optional premises cultivation operation or a medical marijuana-infused products manufacturing operation in the City.

(b) Penalty. A violation of the provisions of this Section by any person shall be a criminal violation and punishable by a fine of not more than one thousand dollars (\$1,000.00) or imprisonment for not more than one (1) year, or by both such fine and imprisonment. Each day such violation continues shall be considered a separate offense. The City is specifically authorized to seek an injunction, abatement, restitution or any other remedy necessary to prevent, enjoin, abate or remove the violation. Continuing violations of this Section are declared to be a nuisance and the City is authorized to seek to abate such nuisance under this Code. Any remedies provided for herein shall be cumulative and not exclusive, and shall be in addition to any other remedies provided by law or in equity.

(c) Patients and primary caregivers. Nothing in this Section shall prohibit, regulate, impair or be construed to affect the allowable cultivation, use or possession of medical marijuana by a patient or primary caregiver when acting in accordance with Section 14 of Article XVIII of the Colorado Constitution, the Colorado Medical Marijuana Code, regulations promulgated by state agencies with regulatory authority and City ordinances and regulations. When engaging in allowable activities, patients and primary caregivers shall strictly adhere to all laws and regulations affecting the health, safety and welfare of the public, including but not limited to residential land use restrictions, building, electrical and fire codes, zoning codes and nuisance ordinances.

**Sec. 10-11-80. Marijuana establishments prohibited.**

(a) Prohibition. No person shall establish, operate, cause to be operated or permit to be operated a marijuana establishment.

(b) Penalty. A violation of this Section by any person shall be a criminal violation and punishable by a fine of not more than one thousand dollars (\$1000.00), or imprisonment for not more than one (1) year, or by both such fine and imprisonment. Each day such violation continues shall be considered a separate offense. The City is specifically authorized to seek an injunction, abatement, restitution or any other remedy necessary to prevent, enjoin, abate, or remove the violation. Continuing violations of this Section are declared to be a nuisance and the City is authorized to seek to abate such nuisance under this Code. Any remedies provided for herein shall be cumulative and not exclusive, and shall be in addition to any other remedies provided by law or in equity.

**Sec. 10-11-90. Private abatement action not prohibited.**

This Article shall not be construed to conflict with the right of any person to maintain a private action to abate a violation as provided by law.

**ARTICLE 5 – ADOPTION – PENALTY PROVISIONS**

**A.** The Chart found at Section 10-16-10(b)(1) of the Code is amended as follows:

Delete the references to Sections 10-11-10 through 10-11-30 and add:

- 10-11-20 Possession of marijuana
- 10-11-30 Possession of drug paraphernalia
- 10-11-40 Substances releasing toxic vapors
- 10-11-50 Display or consumption of marijuana
- 10-11-60 Marijuana; procurement or sales to underage person

**B.** The Chart found at Section 10-16-10(b)(2) of the Code is amended to add the following:

- 10-11-70 Medical marijuana operations prohibited
- 10-11-80. Marijuana establishments prohibited

**ARTICLE 6 – ADOPTION – MODEL TRAFFIC CODE AMENDMENTS**

A new Subsection (14) is added to Section 8-1-20 of the Code, with the existing Subsection (14) and the subsequent Subsections renumbered:

**Sec. 8-1-20. Amendments.**

(14) A new Section 1305.5 is added to the Model Traffic Code to read as follows:

**“1305.5. Open marijuana container - motor vehicle - prohibited.**

“(1) Definitions. As used in this Section, unless the context otherwise requires:

*Marijuana* shall have the same meaning as in Section 16(2)(f) of Article XVIII of the state constitution.

*Motor vehicle* means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets and highways but does not include a vehicle operated exclusively on a rail or rails.

*Open marijuana container* means a receptacle or marijuana accessory that contains any amount of marijuana and:

- (i) is open or has a broken seal;
- (ii) the contents of which are partially removed; or
- (iii) there is evidence that marijuana has been consumed within the motor vehicle.

*Passenger area* means the area designed to seat the driver and passengers, including seating behind the driver, while a motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in his or her seating position, including but not limited to the glove compartment.

“(2) (a) Except as otherwise permitted in paragraph (b) of this subsection (2), a person while in the passenger area of a motor vehicle that is on a public street or highway or the right-of-way of a public street or highway may not knowingly:

- (i) use or consume marijuana; or
- (ii) have in his or her possession an open marijuana container.

(b) the provisions of this subsection (2) shall not apply to:

(i) passengers, other than the driver or a front seat passenger, located in the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation;

(ii) the possession by a passenger, other than the driver or a front seat passenger, of an open marijuana container in the living quarters of a house coach, house trailer, motor home, as defined in section 42-1-102(57) C.R.S., or trailer coach, as defined in section 42-1-102(106)(a) C.R.S.;

(iii) the possession of an open marijuana container in the area behind the last upright seat of a motor vehicle that is not equipped with a trunk; or

(iv) the possession of an open marijuana container in an area not normally occupied by the driver or a passenger in a motor vehicle that is not equipped with a trunk.

“(3) Any person who violates the provisions of this Section commits a traffic infraction and shall be punished by a fine of one hundred dollars (\$100.00).”

## **ARTICLE 7 – CAUSES OF ACTION RETAINED**

Nothing in this Ordinance hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Ordinance.

## **ARTICLE 8 – SEVERABILITY**

If any part or provision of this Ordinance, or its application to any person or circumstance, is adjudged to be invalid or unenforceable, the invalidity or unenforceability of such part, provision, or application shall not affect any of the remaining parts, provisions or applications of this Ordinance which can be given effect without the invalid provision, part or application, and to this end the provisions and parts of this Ordinance are declared to be severable.

## **ARTICLE 9 - EFFECTIVE DATE**

This Ordinance shall take effect thirty (30) days following publication after the first reading if no changes are made on second reading, or twenty (20) days after publication following second reading if changes are made upon second reading.

**INTRODUCED READ AND ORDERED PUBLISHED ON FEBRUARY 4, 2014.**

**PUBLISHED IN THE DOUGLAS COUNTY NEWS PRESS ON FEBRUARY 13, 2014,  
LEGAL NOTICE NO. 924923.**

**APPROVED AND ADOPTED WITH NO CHANGES ON SECOND READING ON  
FEBRUARY 18, 2014, TO BECOME EFFECTIVE ON MARCH 15, 2014.**

**CITY OF LONE TREE:**

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James D. Gunning, Mayor

**ATTEST:**

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Jennifer Pettinger, CMC, City Clerk

( S E A L )

ARTICLE XI

Offenses Relating to Drugs and Drug Paraphernalia

Sec. 10-11-10. Definitions.

For purposes of this Article, the following terms shall have the following meanings:

Colorado Medical Marijuana Code means Title 12, Article 43.3, Section 12-43.3-101, et seq., C.R.S.

Marijuana means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate. “Marijuana” does not include industrial hemp, nor does it include fiber produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

Moved (insertion) [2]

Marijuana accessories means any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana into the human body.

Marijuana concentrate means hashish, tetrahydrocannabinols, or any alkaloid, salt, derivative, preparation, compound, or mixture, whether natural or synthesized, of tetrahydrocannabinols.

Marijuana cultivation facility means an entity licensed to cultivate, prepare, and package marijuana and sell marijuana to retail marijuana stores, to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers.

Moved (insertion) [3]

Marijuana establishment means a marijuana cultivation facility, a marijuana testing facility, a marijuana product manufacturing facility or a retail marijuana store.

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

Moved (insertion) [4]

Marijuana products means concentrated marijuana products and marijuana products that are comprised of marijuana and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures.

Deleted: ¶

Marijuana testing facility means an entity licensed to analyze and certify the safety and potency of marijuana.

Medical marijuana means marijuana that is grown and sold for a purpose authorized by Section 14 of Article XVIII of the Colorado Constitution.

Medical marijuana center means a person authorized to be licensed to operate a business as described in the Colorado Medical Marijuana Code that sells medical marijuana to registered patients or primary caregivers as defined in Section 14 of Article XVIII of the Colorado Constitution, but is not a primary caregiver, and which a municipality is authorized to prohibit as a matter of law.

Medical marijuana-infused products manufacturer means a person licensed pursuant to the Colorado Medical Marijuana Code to operate a business known as a medical marijuana-infused products manufacturing license, and which a municipality is authorized to prohibit as a matter of law.

Openly means not protected from unaided observation lawfully made from outside its perimeter not involving physical intrusion.

Optional premises cultivation operation means a person licensed pursuant to the Colorado Medical Marijuana Code to operate a business known as an optional premises grow facility in order to grow and cultivate marijuana for a purpose authorized by Section 14 of Article XVIII of the Colorado Constitution, and which a municipality is authorized to prohibit as a matter of law.

Patient means a person who has a debilitating medical condition.

Primary caregiver means a person, other than the patient and the patient's physician, who is eighteen years of age or older and has significant responsibility for managing the well-being of a patient who has a debilitating medical condition.

Publicly means an area that is open to general access without restriction.

Retail marijuana store” means an entity licensed to purchase marijuana from marijuana cultivation facilities and marijuana and marijuana products from marijuana product manufacturing facilities and to sell marijuana and marijuana products to consumers.

Person means a natural person, partnership, association, company, corporation, limited liability company, organization or any other legal or commercial entity, or a manager, agent, owner, director, servant, officer, or employee thereof.

Moved (insertion) [1]

Moved (insertion) [5]

Deleted: 10. .

Deleted: . Prohibitions enumerated.¶  
(1)

Deleted: two (2) ounces or less of

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Deleted: two (2) ounces or less

Deleted: from one (1) person to another.

**Sec. 10-11-20. Possession of marijuana.**

(a) It is unlawful for any person to possess marijuana, except to the extent provided for personal use of marijuana by persons twenty-one (21) years of age or older by Article XVIII, Section 16 of the Colorado Constitution. Transferring or dispensing of marijuana for no

consideration shall be deemed possession and not dispensing or sale thereof. All violations of this Section involving two (2) ounces or less of marijuana may be brought in Municipal Court.

(b) It is unlawful for any person under the age of twenty-one (21) years to obtain, purchase or request, or attempt to obtain or purchase, marijuana, either directly or through an intermediary, by any means, including misrepresentation of age.

(c) It is unlawful for any person twenty-one (21) years of age or older to possess more than six (6) marijuana plants.

(d) Any person who violates any provision of this Section commits a noncriminal violation, and upon conviction thereof, shall be punished by a fine not exceeding one hundred dollars (\$100.00).

(e) Possession of marijuana for medical use in compliance with both Article XVIII, Section 14 of the Colorado Constitution and the Colorado Medical Marijuana Code shall be an affirmative defense to prosecution under this Section.

**Sec. 10-11-30. Possession of drug paraphernalia.**

(a) Possession prohibited. It is unlawful to knowingly possess drug paraphernalia.

(b) As used in this Section, *drug paraphernalia* means all equipment, products and materials of any kind which are used, intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of the law. *Drug paraphernalia* includes, but is not limited to:

- (1) Testing equipment used, intended for use or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances.
- (2) Scales and balances used, intended for use or designed for use in weighing or measuring controlled substances.
- (3) Separation gins and sifters used, intended for use or designed for use in removing twigs and seeds from or in otherwise cleaning or refining marijuana.
- (4) Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding controlled substances.
- (5) Capsules, balloons, envelopes, baggies, bindles and other containers used, intended for use or designed for use in packaging small quantities of controlled substances.
- (6) Containers or other objects used, intended for use or designed for use in storing or concealing controlled substances.

**Deleted:** .

**Deleted:** ¶  
(2) . It is unlawful for any person to openly and publicly display, consume or use two (2) ounces or less of marijuana.¶  
(b) . Interpretation. Consumption or use of

**Deleted:** shall

**Deleted:** deemed possession thereof.¶  
(c) . As used

**Deleted:** this Section, *marijuana* means all parts of the plant *Cannabis sativa L.*, whether growing or not, the seeds thereof, the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or its resin. It does not include fiber produced from the stalks, oil or cake made from the seeds of the plant, or sterilized seed of the plant which is incapable of germination if these items exist apart from any other item defined as *marijuana* in this Subsection. It does not include *marijuana concentrate*, which means hashish, tetrahydrocannabinol, or any alkaloid, salt, derivative, preparation, compound or mixture, whether natural or synthesized, of tetrahydrocannabinol

**Deleted:** .

**Deleted:**

(7) Objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:

- a. Water pipes;
- b. Carburetion tubes and devices;
- c. Smoking and carburetion masks;
- d. Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette that has become too small or too short to be held in the hand;
- e. Miniature cocaine spoons and cocaine vials;
- f. Chamber pipes;
- g. Carburetor pipes;
- h. Electric pipes;
- i. Air-driven pipes;
- j. Bongs; or
- k. Ice pipes or chillers.

(c) Factors determining drug paraphernalia. In determining whether an object is drug paraphernalia, the Court, in its discretion, may consider, in addition to all other relevant factors, the following:

- (1) Statements by an owner or by anyone in control of the object concerning its use.
- (2) The proximity of the object to controlled substances.
- (3) The existence of any residue of controlled substance on the object.
- (4) Instructions, oral or written, provided with the object concerning its use.
- (5) Descriptive materials accompanying the object which explain or depict its use.
- (6) National or local advertising concerning its use.
- (7) The existence and scope of legal uses for the object in the community.
- (8) Expert testimony concerning its use.

~~(d) The provisions of this Section shall not apply to personal use of "Marijuana Accessories" by any person that is twenty-one years of age or older to the extent provided by Article XVIII, Section 16(3) of the Colorado Constitution.~~

Deleted: (d)

(e) Any person who violates any provision of this Section commits a noncriminal violation and, upon conviction thereof, shall be punished by a fine not exceeding one hundred dollars (\$100.00).

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**Sec. 10-11-40. Substances releasing toxic vapors.**

(a) Use prohibited. No person shall knowingly smell or inhale the fumes of toxic vapors for the purpose of causing a condition of euphoria, excitement, exhilaration, stupefaction or dulled senses or nervous system, or possess, buy or use any such substance for the purpose of violating or aiding another to violate this Section.

(b) Sales or furnishing to minors. It is unlawful to knowingly sell, give, deliver or furnish any substance releasing toxic vapors to any child under the age of eighteen (18) years without the personal or written consent of a parent or guardian of such child, except when the sale of one (1) tube of glue is made simultaneously with or as part of a sale, purchase or delivery of a hobby or model kit.

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**Moved up [1]:** *Optional premises cultivation operation* means a person licensed pursuant to the Colorado Medical Marijuana Code to operate a business known as an optional premises grow facility in order to grow and cultivate marijuana for a purpose authorized by Section 14 of Article XVIII of the Colorado Constitution, and which a municipality is authorized to prohibit as a matter of law.¶

**Sec. 10-11-50. Display or consumption of marijuana.**

(a) It is unlawful for any person to

display, consume, use, transfer or distribute marijuana openly and publicly or in a manner that endangers others.

**Deleted:** Definitions. For purposes of this Section, the following terms shall have the following meanings:¶

*Colorado Medical Marijuana Code* means Title 12, Article 43.3, Section 12-43.3-101, et seq., C.R.S.¶  
*Medical marijuana* means marijuana that

**Deleted:** grown and sold

**Deleted:** a purpose authorized by Section 14 of Article XVIII of the Colorado Constitution.¶  
*Medical marijuana center* means a

(a) It is unlawful for any person to display, consume, use, transfer or distribute marijuana openly and publicly or in a manner that endangers others.

**Deleted:** authorized

(b) It is unlawful for any person to display, consume, use, transfer or distribute marijuana:

**Deleted:** be licensed to operate a business as described in the Colorado Medical Marijuana Code that sells medical marijuana to registered patients or primary caregivers as defined in Section 14 of Article XVIII of the Colorado Constitution, but is not a primary caregiver, and which a municipality is authorized to prohibit as a matter of law.¶  
*Medical marijuana-infused products manufacturer* means a person licensed pursuant to the Colorado Medical Marijuana Code to operate a business known as a medical marijuana-infused products manufacturing license, and which a municipality is authorized to prohibit as a matter of law.¶

(1) In or upon any public way or public right of way;

(2) In or upon any property or building owned, operated, leased or maintained by the City or the State, or any political subdivision or agency thereof;

(3) In or upon any property or any building that is owned, leased, used by or open to the public; or

(4) In or upon those portions of any private property upon which the public has an express or implied license to enter and remain.

**Deleted:** *Person* means a natural person, partnership, association, company, corporation, limited liability company

**Deleted:** organization,

**Deleted:** a manager, agent, owner, director, servant, officer or employee thereof

(c) Any person who violates any provision of this Section commits a noncriminal violation and upon conviction thereof, shall be punished by a fine not exceeding one hundred dollars (\$100.00).

**Deleted:** *Patient* has the meaning provided in Section 14(l)(c) of Article XVIII of the Colorado Constitution.¶

*Primary caregiver* has the meaning provided in Section 14(1)(f) of Article XVIII of the Colorado Constitution.¶

**Sec. 10-11-60. Marijuana; procurement or sales to underage person.**

(a) It is unlawful for any person to provide, serve, deliver or transfer marijuana or marijuana products, with or without remuneration, to any person under the age of twenty-one (21) years.

(c) Any person who violates any provision of this Section commits a noncriminal violation, and upon conviction thereof, shall be punished by a fine not exceeding five hundred dollars (\$500.00).

**Sec. 10-11-70. Medical marijuana.**

(a) Prohibition. No person shall establish, operate, cause to be operated or permit to be operated a medical marijuana center, an optional premises cultivation operation or a medical marijuana-infused products manufacturing operation in the City.

(b) Penalty. A violation of the provisions of this Section by any person shall be a criminal violation and punishable by a fine of not more than one thousand dollars (\$1,000.00) or imprisonment for not more than one (1) year, or by both such fine and imprisonment. Each day such violation continues shall be considered a separate offense. The City is specifically authorized to seek an injunction, abatement, restitution or any other remedy necessary to prevent, enjoin, abate or remove the violation. Continuing violations of this Section are declared to be a nuisance and the City is authorized to seek to abate such nuisance under this Code. Any remedies provided for herein shall be cumulative and not exclusive, and shall be in addition to any other remedies provided by law or in equity.

(c) Patients and primary caregivers. Nothing in this Section shall prohibit, regulate, impair or be construed to affect the allowable cultivation, use or possession of medical marijuana by a patient or primary caregiver when acting in accordance with Section 14 of Article XVIII of the Colorado Constitution, the Colorado Medical Marijuana Code, regulations promulgated by state agencies with regulatory authority and City ordinances and regulations. When engaging in allowable activities, patients and primary caregivers shall strictly adhere to all laws and regulations affecting the health, safety and welfare of the public, including but not limited to residential land use restrictions, building, electrical and fire codes, zoning codes and nuisance ordinances.

**Sec. 10-11-80. Marijuana establishments prohibited.**

(a) Prohibition. No person shall establish, operate, cause to be operated or permit to be operated a marijuana establishment.

Deleted: (c) .

Deleted: d) .

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Deleted: (a) Definitions. For purposes of this Section, the following terms shall have the following meanings:¶  
¶  
¶ "Marijuana"

Moved up [2]: means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate. "Marijuana" does not include industrial hemp, nor does it include fiber produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.¶  
¶

Deleted: "Marijuana cultivation facility"

Moved up [3]: means an entity licensed to cultivate, prepare, and package marijuana and sell marijuana to retail marijuana stores, to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers.¶  
¶

Deleted: "Marijuana establishment" means a marijuana cultivation facility, a marijuana testing facility, a marijuana product manufacturing facility, or a retail marijuana store.¶  
¶

Deleted: "Marijuana product manufacturing facility"

Moved up [4]: means an entity licensed to purchase marijuana, manufacture, prepare, and package marijuana products; and sell marijuana and marijuana products to other marijuana product manufacturing facilities and to retail marijuana stores, but not to consumers.¶  
¶

Deleted: "Marijuana products" means concentrated marijuana products and marijuana products that are comprised of marijuana and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures.¶  
¶

Deleted: "Marijuana testing facility" means an entity licensed to analyze and certify the safety and potency of marijuana.¶

Moved up [5]: Retail marijuana store" means an entity licensed to purchase marijuana from marijuana cultivation facilities and marijuana and marijuana products from marijuana product manufacturing

Deleted: ¶

¶ Person means a natural person, partnership, association, company, corporation, limited liability company, or organization, or a manager, agent,

Deleted: .(c)

(b) Penalty. A violation of this Section by any person shall be a criminal violation and punishable by a fine of not more than one thousand dollars (\$1000.00), or imprisonment for not more than one (1) year, or by both such fine and imprisonment. Each day such violation continues shall be considered a separate offense. The City is specifically authorized to seek an injunction, abatement, restitution or any other remedy necessary to prevent, enjoin, abate, or remove the violation. Continuing violations of this Section are declared to be a nuisance and the City is authorized to seek to abate such nuisance under this Code. Any remedies provided for herein shall be cumulative and not exclusive, and shall be in addition to any other remedies provided by law or in equity.

**Sec. 10-11-90. Private abatement action not prohibited.**

This Article shall not be construed to conflict with the right of any person to maintain a private action to abate a violation as provided by law.

**CHAPTER 8**

**Vehicles and Traffic**

**ARTICLE 1**

**Model Traffic Code**

**Sec. 8-1-20. Amendments.**

(14) A new Section 1305.5 is added to the Model Traffic Code to read as follows:

**“1305.5. Open marijuana container - motor vehicle - prohibited.**

“(1) Definitions. As used in this Section, unless the context otherwise requires:

- *Marijuana* shall have the same meaning as in Section 16(2)(f) of Article XVIII of the state constitution.

- *Motor vehicle* means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets and highways but does not include a vehicle operated exclusively on a rail or rails.

- *Open marijuana container* means a receptacle or marijuana accessory that contains any amount of marijuana and:

(i) is open or has a broken seal;

(ii) the contents of which are partially removed; or

(iii) there is evidence that marijuana has been consumed within the motor vehicle.

- Passenger area means the area designed to seat the driver and passengers, including seating behind the driver, while a motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in his or her seating position, including but not limited to the glove compartment.

- “(2) (a) Except as otherwise permitted in paragraph (b) of this subsection (2), a person while in the passenger area of a motor vehicle that is on a public street or highway or the right-of-way of a public street or highway may not knowingly:

(i) use or consume marijuana; or

(ii) have in his or her possession an open marijuana container.

- (b) the provisions of this subsection (2) shall not apply to:

(i) passengers, other than the driver or a front seat passenger, located in the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation;

(ii) the possession by a passenger, other than the driver or a front seat passenger, of an open marijuana container in the living quarters of a house coach, house trailer, motor home, as defined in section 42-1-102(57) C.R.S., or trailer coach, as defined in section 42-1-102(106)(a) C.R.S.;

(iii) the possession of an open marijuana container in the area behind the last upright seat of a motor vehicle that is not equipped with a trunk; or

(iv) the possession of an open marijuana container in an area not normally occupied by the driver or a passenger in a motor vehicle that is not equipped with a trunk.

- “(3) Any person who violates the provisions of this Section commits a traffic infraction and shall be punished by a fine of one hundred dollars (\$100.00).”



CITY OF LONE TREE  
STAFF REPORT

**TO: Mayor Gunning and City Council**

**FROM: Neil Rutledge**

**DATE: January 21, 2014**

**FOR: February 4, 2014 City Council Meeting**

**SUBJECT: Ordinance 14-02 Submitting a Charter Amendment to City Registered Electors at the May 6, 2014 Regular Election, Amending the City of Lone Tree Home Rule Charter to Require a Majority Vote for the Election of Mayor and Providing for Runoff Elections for Mayor**

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Summary

The City of Lone Tree currently does not have a runoff election requirement if a majority of votes are not cast for a single candidate for the Mayoral position. In order to facilitate a majority requirement and a runoff election process, the City Charter would need to be amended. This Ordinance submits a Charter Amendment to the voters of the City requiring a majority vote for Mayor and providing for runoff elections.

Cost

Amending the Lone Tree Home Rule Charter requires a ballot question approved by the majority of the voters. If a change to the election procedure is incorporated into the Charter, additional cost for elections may occur if runoff elections are required

Suggested Motion

I move to approve Ordinance 14-02, submitting a Charter amendment to City registered electors at the May 6, 2014 regular election, amending the City of Lone Tree Home Rule Charter to require a majority vote for the election of Mayor and providing for runoff elections for Mayor.

Background

The City of Lone Tree's Mayoral position is not subject to runoff election requirements. While there are additional costs associated having runoff elections, the process does ensure the successful candidate has the support of a majority of the voters.

The City Council of Lone Tree, by adoption of this ordinance, submits a proposed Charter Amendment to a vote of the registered electors.

**ORDINANCE OF THE  
CITY OF LONE TREE**

**Series of 2014**

**Ordinance No. 14-02**

**AN ORDINANCE SUBMITTING A CHARTER AMENDMENT TO CITY  
REGISTERED ELECTORS AT THE MAY 6, 2014 REGULAR ELECTION,  
AMENDING THE CITY OF LONE TREE HOME RULE CHARTER TO REQUIRE A  
MAJORITY VOTE FOR THE ELECTION OF MAYOR AND PROVIDING FOR  
RUNOFF ELECTIONS FOR MAYOR**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LONE TREE,  
COLORADO:**

**ARTICLE 1 – AUTHORITY**

- A. The City of Lone Tree (the "City") is a home rule municipality operating under the Lone Tree Home Rule Charter (the "Charter") adopted on May 5, 1998 and a Municipal Code (the "Code"), codified and adopted on December 7, 2004. Pursuant to the Charter, the Municipal Code and the authority given home rule cities, the City may adopt and amend Ordinances.
- B. The procedure by which the City may amend its Home Rule Charter is governed by the Municipal Home Rule Act of 1971, 31-2-201, *et seq.* C.R.S.

**ARTICLE 2 – FINDINGS OF FACT**

- A. Pursuant to the City of Lone Tree Home Rule Charter, the Mayor shall be elected from the City at large. As a result, the Mayor represents all of the residents of the City of Lone Tree.
- B. The Charter and relevant state statutes currently provide for the election to the office of Mayor by the candidate receiving the most votes. If more than two candidates run for the office of Mayor, it is possible the Mayor of Lone Tree could be elected by a plurality of the voters and not by a majority of the registered electors.

- C. In the event that the candidate with the most votes in an election for Mayor receives less than a majority vote, a runoff election would be required to ensure that the Mayor enjoys the support of a majority of the City’s electors.
- D. The City Council has determined that it is in the best interests of the people of Lone Tree that the Charter be amended so that the person serving as the Mayor of the City has the support and endorsement of a majority of the citizens of the City, as demonstrated by a vote by the majority, and not a plurality, of the registered electors of the City.

**ARTICLE 3 – ADOPTION**

1. The City Council hereby authorizes the following Ballot Question to be submitted to a vote of the registered electors of the City of Lone Tree, Colorado, at the regular municipal election held on May 6, 2014:

SHALL THE CITY OF LONE TREE HOME RULE CHARTER BE AMENDED TO REQUIRE A MAJORITY VOTE FOR THE ELECTION OF MAYOR AND PROVIDE FOR RUNOFF ELECTIONS FOR MAYOR?

YES \_\_\_\_\_ NO \_\_\_\_\_

2. The Ballot Title for the Charter Amendment is hereby adopted, pursuant to Section 31-2-210(1)(b) C.R.S. The Ballot Title shall be the Ballot Question stated above.

3. The text of the Charter Amendment shall be as follows:

**ARTICLE IX, ELECTIONS**

**Section 5. Runoff Election for Mayor.**

A. The Mayor shall be elected by a majority, and not a plurality, of votes cast for the office of Mayor. If no candidate receives a majority of the votes cast for Mayor, a runoff election shall be held on the first Tuesday following thirty (30) days after the regular or special election. The runoff election shall be held in the same manner as the previous regular or special election.

B. If a Mayoral runoff election is required, the names of the two (2) candidates for the Office of Mayor receiving the highest number of votes in the regular or special election shall appear on the ballot as the runoff candidates for Mayor. In the event of a tie vote for candidates having the second highest number of votes in an election, a selection shall be made by lot so that there are only two (2) eligible candidates for the runoff election. The names of candidates shall be arranged in the same order as they appeared in the regular or special election.

C. In the event of the death, disqualification or withdrawal of either of the two (2) runoff Mayoral candidates prior to the conduct of the runoff election, the name of the candidate who received the third greatest number of votes for the Office of Mayor in the regular or special election shall be substituted and shall appear on the runoff election ballot. In any such event, notice of any substitution of a runoff Mayoral candidate shall be publicly noticed.

D. In the event of a tie vote in the runoff election, a second runoff election shall be held under the same procedure as the first runoff election, and this procedure shall be repeated until one runoff candidate receives a majority of the votes cast for Mayor.

E. Certification of candidates and publication of election notice shall be on or prior to ten (10) days before the election.

F. As soon as the polls are closed after a runoff election, the judges shall determine the number of votes cast for each candidate and make return thereof to the City Clerk. The Mayoral candidate receiving the greatest number of votes cast at said election shall be declared elected. The successful candidate in the runoff election shall take office at the first regular or special Council meeting conducted after the runoff election.

4. Within thirty (30) days of the date of the adoption of this Ordinance, the City Clerk is directed to publish notice of the election upon this Charter Amendment, which notice shall contain the full text of the Charter Amendment as contained in this Ordinance.

#### **ARTICLE 4 – SEVERABILITY**

If any part or provision of this Ordinance, or its application to any person or circumstance, is adjudged to be invalid or unenforceable, the invalidity or unenforceability of such part, provision, or application shall not affect any of the remaining parts, provisions or applications of this Ordinance that can be given effect without the invalid provision, part or application, and to this end the provisions and parts of this Ordinance are declared to be severable.

#### **ARTICLE 5 – EFFECTIVE DATE**

This Ordinance shall become effective thirty (30) days following publication after first reading if no changes are made on second reading, or twenty (20) days following publication after a second reading if changes are made on second reading.

**INTRODUCED READ AND ORDERED PUBLISHED ON FEBRUARY 4, 2014.**

**PUBLISHED IN THE DOUGLAS COUNTY NEWS PRESS ON FEBRUARY 13, 2014,  
LEGAL NOTICE NO. 924924.**

**APPROVED AND ADOPTED WITH NO CHANGES ON SECOND READING ON  
FEBRUARY 18, 2014, TO BECOME EFFECTIVE ON MARCH 15, 2014.**

**CITY OF LONE TREE**

\_\_\_\_\_  
James D. Gunning, Mayor

**ATTEST:**

\_\_\_\_\_  
Jennifer Pettinger, CMC, City Clerk

(SEAL)



CITY OF LONE TREE  
STAFF REPORT

**TO: Mayor Gunning and City Council**

**FROM: Jennifer Pettinger, CMC, City Clerk**

**DATE: February 6, 2014**

**FOR: City Council Agenda Item February 18, 2014**

**SUBJECT: Resolution 14-04, CALLING A CITY COUNCIL ELECTION FOR THE CITY OF LONE TREE**

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Summary

The City's Charter provides that all regular elections will be held on the first Tuesday after the first Monday of May of even-number years. The next election is scheduled for Tuesday, May 6, 2014.

Cost

\$17,000 - \$20,000

Suggested Motion or Recommended Action

I move to approve Resolution 14-04, CALLING A CITY COUNCIL ELECTION FOR THE CITY OF LONE TREE.

Background

The governing body may by resolution delegate to the clerk the authority and responsibility to appoint election judges. The attached resolution calls for the election and delegates the appointment of election judges to the clerk. It also allows for the clerk to cancel the election if the only matter before electors is candidates, and there is only one candidate per office by close of business on April 17, 2014 but with the passage of Ordinance 14-01 there will be a ballot item.

We will be holding a polling place election at the Civic Center and will be receiving assistance from Douglas County Clerk and Recorder's Office for the processing of our ballots. In outside vendor will be printing our ballots and assisting us with the initial mailing of absentee ballots. There are 8,628 registered voters in the City of Lone Tree, as of February 4.

**CITY OF LONE TREE  
RESOLUTION NO. 14-04**

**A RESOLUTION CALLING FOR THE REGULAR BIENNIAL CITY ELECTION FOR THE  
CITY OF LONE TREE**

**WHEREAS**, the Home Rule Charter for the City of Lone Tree (the “City”) provides that all regular elections shall be held on the first Tuesday after the first Monday of May of even-numbered years; and

**WHEREAS**, the City Council has by Resolution 13-22 appointed Jennifer Pettinger, City Clerk, as the Designated Election Official for all City elections; and

**WHEREAS**, pursuant to the Charter, a regular City election is required this year.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LONE TREE, COLORADO THAT:**

1. A regular City election shall be held in the City of Lone Tree, Colorado on Tuesday, May 6, 2014, for the purpose of electing a two City Council Members and any other matters that might properly come before the electorate.
2. The Designated Election Official shall publish a notice of the election in the Douglas County News-Press on or about April 24, 2014, which notice shall state the date, poll hours, polling place for each district, voter qualifications, questions to be voted upon (if any), and listing of the candidates.
3. The Designated Election Official shall take all steps necessary to conduct such election as a polling place election.
4. The City Council, pursuant to Section 31-10-401, C.R.S., and consistent with Resolution 13-22, paragraph 16, hereby delegates to the City Clerk the authority and responsibility to appoint judges of the election.
5. The City Clerk, pursuant to Section 2-1-60, Lone Tree Municipal Code, may cancel the election if the only matter before electors is candidates, and there is only one candidate per office by close of business on April 17, 2014.
6. This Resolution shall become effective immediately upon its adoption.

**THIS RESOLUTION IS APPROVED AND ADOPTED THIS 18<sup>th</sup> DAY OF FEBRUARY, 2014.**

**CITY OF LONE TREE**

By: \_\_\_\_\_  
James D. Gunning, Mayor

**ATTEST:**

By: \_\_\_\_\_  
Jennifer Pettinger, CMC, City Clerk

**CITY OF LONE TREE  
RESOLUTION NO. 14-05**

**A RESOLUTION REAPPOINTING REPRESENTATIVES  
TO THE DOUGLAS COUNTY HOUSING PARTNERSHIP**

WHEREAS, The City of Lone Tree has entered into an Intergovernmental Agreement with the jurisdictions of Castle Rock, Parker, and Douglas County to establish a multi-jurisdictional housing authority known as the Douglas County Housing Partnership, a Multi-jurisdictional Housing Authority (DCHP) ; and

WHEREAS, said Agreement provides that the membership of the Douglas County Housing Partnership, a Multi-jurisdictional Housing Authority, be comprised of two individuals per entity; and

WHEREAS, Council desires to reappoint Harold Anderson and Donna Russell to the Douglas County Housing Partnership, a Multi-jurisdictional Housing Authority.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LONE TREE, COLORADO:

Harold Anderson is hereby reappointed to the Douglas County Housing Partnership for a term which expires on May 17, 2016.

Donna Russell is hereby reappointed to the Douglas County Housing Partnership for a term which expires on May 17, 2016.

**APPROVED AND ADOPTED THIS 18<sup>th</sup> DAY OF FEBURARY, 2014.**

**CITY OF LONE TREE**

\_\_\_\_\_  
James D. Gunning, Mayor

**ATTEST:**

\_\_\_\_\_  
Jennifer Pettinger, CMC, City Clerk

(S E A L)