1. **Attendees and Introductions:** Steve Dexter (Air Filter Solutions), Byron Ballentine (BCER Engineering), Meg Collins (Good Chemistry), Laura Davis (Good Chemistry), Logan Goolsby (Native Roots), Aubrey Lavizzo (La Alma Lincoln Park Neighborhood Association), Wendy Hawthorne (Groundwork Denver), Gregg Thomas (Denver Environmental Health), Christian Sederberg (Vicente Sederburg LLC), Lindsay Carder (City Attorney’s Office), Kirk Whitehead (Denver Environmental Health), Celia VanDerLoop (North Denver Cornerstone Collaborative), Shelly Miller (University of Colorado Boulder), Cinque McKinney (GELP), Bailey Ewan (GELP), Sheila Lunann (GELP), M. Bartling (GELP)

2. **Meeting Notes from Previous Meeting:** The meeting notes from the previous meeting were reviewed and accepted.

3. **Definitions of Nuisance and Odor:**
   a. The group clarified that we are discussing nuisance odors in this ordinance and that health impact is NOT necessary to regulate odors under this ordinance. Lindsay read the definition of “nuisance” contained in Chapter 4 of the D.R.M.C.: “the doing of or the failure to do something that allows or permits air contaminants to escape into the open air that are or tend to be detrimental to the health, comfort, safety or welfare of the public or that causes or tends to cause injury or substantial annoyance or inconvenience to persons exposed thereto or causes or tends to cause damage to property.” In order for something to be a nuisance, it can pose an annoyance or inconvenience or be detrimental to welfare; or it can be detrimental to health; or both.
   b. Lindsay Carter provided a handout that contained several definitions of “odor” from other jurisdictions, as well as several dictionary definitions of odor. We discussed whether a definition of odor was needed in the rule. It was asked whether burning eyes or nose would qualify as “odor” under the new ordinance. The group decided that for clarity, a definition of odor should be included in the rule. It was agreed that a very general definition of odor would be best, similar to the Merriam-Webster definition included on the handout: “a quality of something that stimulates the olfactory organ.”

4. **Upset Conditions:**
   a. We discussed avenues to allow businesses to remain compliant during special circumstances where odor control systems may not be operating due to a need for maintenance, or due to an unexpected failure of the system, which conditions are often called upset conditions under other air pollution regulations. The group decided that the term “upset condition” would not be used specifically. Lindsay Carder provided a handout containing upset condition clauses from regulations from different jurisdictions. We discussed what should constitute a legitimate upset condition. Power outages and weather events were identified as several examples of legitimate upset conditions. The group drew a distinction between expected and unexpected upset conditions. Routine maintenance of filters was identified as an example of an expected upset condition. Expected upset conditions should be outlined in the odor control plan, as well as the planned management approach, and if a facility fails to manage these expected upset conditions properly, this could constitute a violation. The group discussed what the requirements should be for an unexpected upset condition, and notice and documentation were the two crucial requirements that emerged. In addition, a time trigger, such as within 24
or 48 hours of the event, was suggested to determine when a business must provide notice to DEH and documentation of an upset condition. Finally, it was advised that the group consider extensions of time for initial compliance with the ordinance due to upset conditions that may arise. Examples of when that might be necessary were if a significant piece of necessary equipment unexpectedly failed, and manufacture replacement may take significant time periods. In those cases, DEH would expect documentation that showed why the extension was needed.

5. Confidentiality: Lindsay Carter discussed CORA requests and confidentiality of information contained in odor control plans (floor plans, etc.). The group had previously expressed concern that information contained in odor control plans could be detrimental to security at facilities and could be used by criminals to help burglarize facilities, such as the location of doors, alarm systems, and cameras. Lindsay confirmed that businesses can designate information that they believe should be held confidential. These items should be clearly designated, with the reason that the applicant believed they should be held confidential. Businesses should be judicious in their designation of items that should be held confidential, as the entire contents of the OCP are not likely to be eligible to be held confidential. If the entire document is designated, or the business is designating items as confidential which DEH does not have the right to withhold, DEH will use its discretion when determining which portions would be withheld. Lindsay also explained that the business’ designation, even if DEH initially agreed with that designation, would NOT guarantee that the information is not ultimately released due to a CORA request, as a judge could potentially decide there is no legitimate reason for the information to remain confidential. Industry representatives in the group requested that template language be provided to businesses, within the template OCPs, to designate documents as requested to be held confidential. The group decided that confidentiality of information should be addressed as a section of the odor control plan in which a business can identify the attached documents it believes contain confidential information. It was confirmed that in addition to this section, the individual documents should also be marked as confidential to clearly differentiate them.

6. Manufacturers of Infused Products (MIPs): We had a brief conversation regarding the potential to develop a template specific to stand-alone MIPs. Ideally, that template will be informed by individuals or businesses knowledgeable with regards to MIPs. Laura Davis and Logan Goolsby agreed to suggest knowledgeable representatives who can inform the group regarding MIP practices, for discussion at a future meeting.

7. Residential cultivation: A question was raised regarding whether the odor provisions would apply to cultivation on residential premises. There is no exclusion in the ordinance updates for residential cultivation, so the provisions apply. However, we do not know how many plants in what stages of growth generate significant odors at a level that might bother neighbors. In addition, since it is legal for those with a medical card to grow up to six plants, or a household with occupants holding multiple cards can grow up to 12 plants without a license, the city does not know where residential cultivation is taking place through any sort of proactive means such as a licensing process. We would only know that a resident may be growing marijuana in their home if we receive a complaint about that location, at which time the city would assemble a team to inspect the premises. Should marijuana be found to be grown at the location, at that point we would require an Odor Control Plan. In addition, we are optimistic that in many cases, odors from small scale cultivation may be controlled by lower tech approaches, such as closing doors and windows of rooms with budding plants.

1. Variance process: The draft rule will contain a process by which the Board of Environmental Health can grant a variance from specific requirements of an Odor Control Plan, or the requirement that an Odor Control Plan be submitted. As an example of a situation where a variance might be considered, we have been told that there is a licensed facility where the marijuana license allows one plant in a retail store, in an enclosed space.

2. Draft rule review: We began reviewing the draft rule, and identified suggested changes. These changes include:
a. Section 1.4.A: Add that dilution threshold is measured by Nasal Ranger; clarify that Acts of God are not covered.

b. Section 4.1.A.1, Facility information should include name of facility owner and operator/licensee, contact information such as phone and e-mail, a local contact, type of facility, community contact person, a requirement for a general description of facility operations, what other Denver licenses are held, what other environmental licenses/permits are held. This section should also be compared against the provisions of Article 32, Section 6.2.10

c. Section 4.1.A.2, Facility odor emissions information should include information on permitted environmental releases

d. We again ran out of time. Participants are asked to forward any suggestions or comments to us for incorporation prior to our next meeting, so we can present a compiled version for discussion at the next meeting.

3. Rule-making process: Lindsay Carder reviewed the process for rule development, where the draft rule will be introduced to the Board of Environmental Health, and then in the subsequent month public comment will be sought prior to a Board vote. Celia VanDerLoop reminded the group that the purpose of the Odor Advisory Group is to gain consensus on a rule that the group can support, and that we will be asking group members to voice support or remaining concerns to the Board when the rule comes up for passage.

4. Next Steps:
   a. City agencies (DEH/NDCC/CAO/E&L/OMP) will continue to coordinate to discuss confidentiality requirements and provide guidance on confidentiality issues.
   b. Laura Davis and Logan Goolsby will recommend expertise in MIPs to NDCC/DEH, to advise the group.
   c. Participants will forward any recommended comments on the draft rule to NDCC.
   d. NDCC/DEH will compile recommended changes and circulate a marked-up draft prior to the next meeting.
   e. Tentative Agenda for next meeting:
      i. Introductions
      ii. Meeting minutes review and correction
      iii. Detailed review of draft rule
      iv. Discussion of MIP odor-creating practices
      v. Introduction of OCP template
      vi. Next steps
   f. Next meeting reminder: July 19, 1-3 p.m., Room 1B6, Webb Municipal Building