

BY AUTHORITY

ORDINANCE NO. _____
SERIES OF 2020

COUNCIL BILL NO. CB20-0262
COMMITTEE OF REFERENCE:
FINANCE & GOVERNANCE

A BILL

For an ordinance amending the Denver medical marijuana code of the Denver Revised Municipal Code to regulate and implement medical marijuana research and development facilities and to modify provisions to conform with state statute.

BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:

Section 1. Article XII of Chapter 24 shall be amended by adding the language underlined and deleting the language stricken to read as follows:

ARTICLE III. – DENVER MEDICAL MARIJUANA CODE

Sec. 24-501. – Purpose and legislative intent.

The Colorado ~~Medical~~ Marijuana Code, Article ~~43-310~~ of Title ~~4244~~, C.R.S., (the CMMC) affords to counties and municipalities the local option to determine whether or not to allow and to license certain medical marijuana businesses within their respective jurisdictions. The purpose of this article XII is to affirmatively authorize such licensing in the City and County of Denver as provided in § ~~42-43.3-301(2)(a)~~44-10-301(2)(a), C.R.S., as amended, and to establish specific standards and procedures for local licensing of medical marijuana centers, medical marijuana infused products manufacturers, and optional premises medical marijuana cultivation operations, medical marijuana testing facilities, medical marijuana transporter licenses, ~~and~~ medical marijuana off-premises storage facilities, and medical marijuana research and development facilities. Furthermore, this article XII is intended to exercise the authority granted by the CMMC for the city to adopt licensing requirements that are, in some cases, supplemental to or stricter than the requirements set forth in state law.

Sec. 24-502. - Defined terms.

The definitions set forth in the Colorado ~~Medical~~ Marijuana Code, § ~~42-43.3-104~~, C.R.S., as amended, and rules adopted pursuant thereto, shall apply equally to this article XII. In addition, the following terms shall have the meanings respectively assigned to them:

Sec. 24-503. - Effective date; applicability.

(a) *Effective date.* On and after July 1, 2011, it shall be unlawful to operate any business in

1 Denver for which a license is required under the Colorado ~~Medical~~ Marijuana Code without first
2 having obtained a local license under this article XII and a state license under the state code.

3 (b) *No entitlement or vested right to licensing.* No person shall be deemed to have any
4 entitlement or vested right to licensing under this article XII or the CMMC by virtue of having received
5 any prior license or permit from the city including, by way of example, any medical marijuana
6 dispensary license, any zoning permit, any wholesale food manufacturer's license, or any sales tax
7 license. In order to lawfully engage in the business of selling, cultivating, or manufacturing medical
8 marijuana in the city on and after July 1, 2011, any person must qualify for and obtain a license in
9 accordance with the requirements of this article XII and the CMMC.

10 **Sec. 24-504. - Relationship to Colorado ~~Medical~~ Marijuana Code; other laws.**

11 Except as otherwise specifically provided herein, this article XII incorporates the
12 requirements and procedures set forth in the Colorado ~~Medical~~ Marijuana Code. In the event of any
13 conflict between the provisions of this article XII or chapter 32 and the provisions of the Colorado
14 ~~Medical~~ Marijuana Code or any other applicable state or local law, or regulations, the more
15 restrictive provision shall control.

16 **Sec. 24-505. - Designation of local licensing authority.**

17 In accordance with § ~~42-43.3-104(5)~~44-10-103(28), C.R.S., as amended, and section
18 2.7.1 of the Denver Charter, the director of the department of excise and licenses is designated as
19 the local licensing authority for purposes of administering the CMMC and this article XII. The director
20 is authorized to appoint one (1) or more hearing officers to conduct such hearings as may be
21 required under the CMMC or this article XII, to consult with the director with respect thereto, and to
22 certify the record or a summary thereof as required by the director along with the hearing officer's
23 recommended findings, conclusions and decision. Any party to such hearing shall have an
24 opportunity to file with the director written objections to any such summary, and to the recommended
25 findings, conclusions and decisions of the hearing officer, prior to the director's decision thereon.

26 **Sec. 24-506. – Classes of licensing authorized.**

27 For the purpose of regulating the cultivation, manufacture, testing, transportation, storage,
28 distribution, offering for sale, and sale of medical marijuana, the director in the director's discretion,
29 upon application in the prescribed form made to the director, may issue and grant to the applicant
30 a local license from any of the following classes, subject to the provisions and restrictions provided
31 in this article XII and the Colorado ~~Medical~~ Marijuana Code:

32 (f) Medical marijuana off-premises storage facility license, and

33 (g) Medical marijuana research and development license.

1 **Sec. 24-507. – Licensing requirements—Provisions applicable to all licenses.**

2 (a) *Criteria for licensing.* The director shall consider and act upon all local license applications
3 in accordance with the standards and procedures set forth in the Colorado ~~Medical~~ Marijuana Code
4 and this article XII, and rules adopted pursuant thereto. The director shall deny any application for
5 a license that does not have a corresponding state license or that is not in full compliance with the
6 Colorado ~~Medical~~ Marijuana Code, this article XII, and any other applicable state or city law or
7 regulation. The director shall also deny any application that contains any false or incomplete
8 information.

9 (b) *Application forms and supplemental materials.* All applications for local licensing shall be
10 made upon forms provided by the state or local licensing authority, and shall include such
11 supplemental materials as required by this article XII, the Colorado ~~Medical~~ Marijuana Code and
12 rules adopted pursuant thereto, including, ~~by way of example~~ but not limited to: Proof of possession
13 of the licensed premises, disclosures related to ownership of the proposed business, fingerprints of
14 the applicants, building plans, floor plans designating the proposed licensed premises outlined in
15 red, and security plans. The director may, at the director's discretion, require additional
16 documentation associated with the application as may be necessary to enforce the requirements of
17 the Colorado ~~Medical~~ Marijuana Code and this article XII, and rules adopted pursuant thereto. In
18 addition, applications for a medical marijuana research and development license shall include a
19 social impact plan which includes, but is not limited to:

20 (1) The name, telephone number, and email address of the person affiliated with the
21 applicant who is responsible for oversight and implementation of the social impact plan;

22 (2) A description of the procedure(s) applicant will use to timely address concerns of
23 residents, registered neighborhood organizations, and businesses within the neighborhood
24 surrounding the licensed premises;

25 (3) A list of all registered neighborhood organizations whose boundaries encompass
26 the location of the proposed licensed premises and a description of the applicant's plan to engage
27 with each registered neighborhood association;

28 (4) A description of the applicant's diversity and inclusion practices in hiring and
29 employment;

30 (5) A description of the applicant's sustainability practices;

31 (6) A description of the applicant's plan to foster participation in the regulated
32 marijuana industry by people from communities that have previously been disproportionately
33 harmed by marijuana prohibition and enforcement in order to positively impact those communities;

1 and

2 (7) A description of how members of the public can access the applicant's social
3 impact plan.

4 (d) *Background checks and determination of good character.* Prior to the issuance of any
5 local license, the director shall make a finding and determination as to the good moral character of
6 the applicant in accordance with the standards and procedures set forth in the CMMC. In so doing,
7 the director may incorporate any findings as to good character previously made by the state
8 licensing authority, and shall not be required to perform a criminal background check if the state
9 licensing authority has already performed a criminal background check on the applicant.

10 (f) *Corresponding state license.* The director shall not issue a local license unless the
11 applicant produces a corresponding license duly issued by the state licensing authority under the
12 Colorado ~~Medical~~ Marijuana Code.

13 **Sec. 24-508. - Licensing requirements—Medical marijuana centers.**

14 Effective May 1, 2016, the director shall not receive or act upon any application for a new
15 medical marijuana center license. In addition to the requirements set forth in the CMMC, the
16 following requirements shall apply to the issuance of any local license for a medical marijuana center
17 for which application was made prior to January 1, 2016, and issuance of the license occurred on
18 or after May 1, 2016, and to any licenses for a medical marijuana center issued prior to May 1, 2016:

19 (b) *Prohibited locations.* No medical marijuana center license shall be issued for the following
20 locations:

21 (5) The spacing requirements set forth in paragraphs (2), (3) and (4) of this subsection
22 (b) shall be enforced in lieu of the spacing requirements set forth in the Colorado ~~Medical~~ Marijuana
23 Code, § ~~42-43.3-308~~44-10-311(1)(d)(l), C.R.S. as amended.

24 **Sec. 24-508.5. - Licensing requirements—Medical marijuana centers—Public hearing**
25 **requirement.**

26 (c) *Results of investigation: decision of director.*

27 (2) In addition to the standards set forth in paragraph (3) of subsection (c) of this
28 section, the director has authority to refuse to issue any medical marijuana center license for good
29 cause subject to judicial review. For purposes of this subsection (c), the term "good cause" means:

30 a. The applicant has violated, does not meet, or has failed to comply with any
31 of the terms, conditions, or provisions of the Colorado ~~Medical~~ Marijuana Code or any rule and
32 regulations promulgated pursuant thereto or this article XII or any rules and regulations promulgated
33 pursuant to this article.

1 **Sec. 24-509. - Licensing requirements—Medical marijuana-infused products manufacturing**
2 **license.**

3 In addition to the requirements set forth in the CMMC, the following requirements shall apply
4 to the issuance of any local license for medical marijuana-infused products manufacturing:

5 (a) *Compliance with zoning; grandfathering of existing locations.* A local license for medical
6 marijuana-infused products manufacturing may be issued for any zone lot where "food preparation
7 and sales, manufacturing, fabrication and assembly, general," or manufacturing, fabrication and
8 assembly, heavy is permitted by the zoning code. Any zone lot where any person qualified as a
9 "locally approved" medical marijuana-infused product manufacturer as of July 1, 2010, in
10 accordance with subsection 24-411(c) and the CMMC may also qualify for licensing under this
11 section provided such manufacturing is considered a compliant or nonconforming use in that
12 location under the zoning code.

13 (b) *Sanitation, product labeling, and public health standards.* Sanitary standards for medical
14 marijuana marijuana-infused products manufacturing shall be as provided by the CMMC and any
15 other applicable state laws and regulations. Any and all medical marijuana products packaged by a
16 licensed medical marijuana manufacturer shall be labeled in accordance with state law.

17 **Sec. 24-510. - Licensing requirements—Optional premises cultivation licenses.**

18 Effective May 1, 2016, the director shall not receive or act upon any application for a new
19 medical marijuana optional premises cultivation license. In addition to the requirements set forth in
20 the CMMC, the following requirements shall apply to the issuance of any local license for an optional
21 premises cultivation license for which application was made prior to January 1, 2016, and issuance
22 of the license occurred on or after May 1, 2016, and to any licenses for a medical marijuana optional
23 premises cultivation license issued prior to May 1, 2016:

24 (a) *Compliance with current zoning.*

25 (3) At the director's discretion, a public hearing may be scheduled for a protested
26 license renewal of any optional premises cultivation licenses granted pursuant to subsection (a)(2)
27 of this section upon a zone lot where plant husbandry is not a permitted use under the zoning code
28 if requested by a party in interest as defined in section 24-508.5(b)(1). Such request for a public
29 hearing must be submitted in the form of a petition prepared by the department and must contain at
30 least ten (10) valid signatures of parties in interest gathered within ninety (90) days of the renewal
31 date. The director shall assign a hearing officer to conduct the public hearing as provided in section
32 24-505. The hearing shall not be conducted until the director has posted or caused to be posted a
33 notice of hearing on the licensed premises in the manner described in § ~~12-43-3-302 (2)~~ 44-3-

1 302(1), C.R.S. for a period of ten (10) days, and provided notice to each of the following at least ten
2 (10) days prior to the hearing: the licensee; the city council representative for the district in which
3 the licensed premises is located; and any registered neighborhood association entitled to receive
4 notice as provided in section 12-96. At the public hearing, the incumbent licensee and any other
5 interested party shall be entitled to speak and present evidence supporting or opposing renewal of
6 the license in the location where plant husbandry is not a permitted use. The hearing officer shall
7 receive and give due consideration to any evidence or testimony submitted by the city council
8 member representing the district in which the licensed premises are located, either in support or
9 opposition to the renewal of the license. The optional premises cultivation license shall be eligible
10 for renewal, subject to additional considerations as provided in section 24-513 for all license
11 renewals, in its current compliant or nonconforming location unless it is shown by a preponderance
12 of the evidence presented at the hearing that:

13 **Sec. 24-510.1. - Licensing requirements—Medical marijuana transporter license.**

14 In addition to the requirements set forth in this article XII, the Colorado ~~Medical~~ Marijuana
15 Code, and any rule or regulations adopted pursuant thereto, the following requirements shall apply
16 to the issuance of any local license for a retail marijuana transporter license:

17 (3) *Co-location of a medical and retail marijuana transporter facility.* A medical marijuana
18 transporter in common ownership with a retail marijuana transporter may be licensed at the same
19 location and may share the same licensed premises, to the extent allowed by the Colorado ~~Medical~~
20 Marijuana Code and any rules and regulations adopted pursuant thereto.

21 **Sec. 24-510.2. - Licensing requirements—Medical marijuana off-premises storage.**

22 In addition to the requirements set forth in the Colorado ~~Retail~~ Marijuana Code and any rules
23 or regulations adopted pursuant thereto, the following requirements shall apply to the issuance of
24 any local license for a medical marijuana off-premises storage facility:

25 (1) *Licensing required.* The director shall not issue any license for a local medical marijuana off-
26 premises storage facility unless the applicant is, at the time of application for a local license,
27 currently licensed as:

28 a. A medical marijuana center, a medical marijuana optional premises cultivation
29 facility, or a medical marijuana infused-products manufacturer under this article XII
30 and by the state licensing authority under the Colorado ~~Medical~~ Marijuana Code, and
31 in compliance with any and all applicable laws; or

32 b. A medical marijuana transporter by the state licensing authority under the Colorado
33 ~~Medical~~ Marijuana Code and in compliance with any and all applicable laws.

1 (5) *Co-location of a retail and medical marijuana off-premises storage facility.* A medical
2 marijuana off-premises storage facility in common ownership with a retail marijuana off-
3 premises storage facility may be licensed at the same location and may share the same
4 licensed premises, to the extent allowed by the Colorado Medical Marijuana Code and any
5 rules and regulations adopted pursuant thereto.

6 **Sec. 24-510.3. – Licensing requirements—Medical marijuana research and development**
7 **facilities.**

8 (a) *Licensing required.* The director shall not issue a license for a medical marijuana research
9 and development facility unless the applicant has received a license for a medical marijuana
10 research development license from the state licensing authority and is in compliance with all
11 applicable laws and rules.

12 (b) *Shared licensed premises - cultivation.* An application for a medical marijuana research
13 and development license that cultivates marijuana shall be denied if the medical marijuana research
14 and development licensed premises is not completely encompassed within the licensed premises
15 of a medical marijuana optional premises cultivation facility or retail marijuana cultivation facility. A
16 medical marijuana research and development license may share its licensed premises with any
17 number of medical and retail marijuana businesses to the extent permitted by state law.

18 (c) *Processing and manufacturing research.* An application for a medical marijuana research
19 and development license that processes or manufactures medical marijuana or medical marijuana
20 products shall comply with section 24-509 and all other state and local laws.

21 (d) *Unlawful acts.*

22 (1) It shall be unlawful for any person to consume, or for a research and development
23 licensee to permit the consumption of, marijuana or marijuana product upon the licensed premises
24 unless the consumption occurs pursuant to an approved research project and in compliance with
25 state and local laws.

26 (2) It shall be unlawful for any person to sell or transfer marijuana or marijuana product
27 from the licensed premises unless the sale or transfer is made to another medical marijuana
28 research and development license or the sale or transfer is made pursuant to an approved research
29 project and in compliance with all state and local laws.

30 (3) It shall be unlawful for any person to cultivate marijuana upon the licensed
31 premises unless the medical marijuana research and development license shares its licensed
32 premises with a licensed medical marijuana optional premises cultivation facility or retail marijuana
33 cultivation facility and the cultivation occurs pursuant to an approved research project.

1 (4) It shall be unlawful for any person to process or manufacture marijuana or
2 marijuana products upon the licensed premises unless the processing or manufacturing occurs
3 pursuant to an approved research project and in compliance with D.R.M.C. section 24-509 and all
4 other state and local laws.

5 **Sec. 24-510.5. - Licensing requirements— Medical marijuana testing facilities.**

6 In addition to the requirements set forth in the Colorado ~~Medical~~ Marijuana Code and any
7 rule or regulations adopted pursuant thereto, the following requirement shall apply to the issuance
8 of any local license for a medical marijuana testing facility: A local medical marijuana testing facility
9 license may be issued in any zone district where, at the time of application for the license, the land
10 use denominated "laboratory, research, development, and technological services" is allowed by the
11 zoning code.

12 **Sec. 24-511. – Transfer of ownership.**

13 (a) *In general.* Transfer of ownership of any license issued pursuant to this article XII shall
14 be governed by the standards and procedures set forth in the Colorado ~~Medical~~ Marijuana Code
15 and any regulations adopted pursuant thereto, and any additional restrictions on transfer of
16 ownership as provided in this article XII and any rules and regulations promulgated by the director.

17 **Sec. 24-512. – Change of location; modification of premises.**

18 (a) Change of location of any license or any modification of the licensed premises shall be
19 governed by the standards and procedures set forth in the Colorado ~~Medical~~ Marijuana Code, this
20 article XII and any regulations adopted pursuant thereto. Any proposed modification and any new
21 location to which an existing licensed business is transferred shall fully comply with the spacing
22 requirements and the requirements for conformance with current zoning as set forth in sections 24-
23 508, 24-509, or 24-510 of this article XII.

24 **Sec. 24-513. – Term of licenses; renewals.**

25 (a) Effective March 1, 2014, any local license issued pursuant to this article XII shall be valid
26 for a period of one (1) year from the date of issuance. Any renewal of the license shall be governed
27 by the standards and procedures set forth in the Colorado ~~Medical~~ Marijuana Code and any
28 regulations adopted pursuant thereto, subject to any additional restrictions on renewal as provided
29 in this article XII, and any regulations adopted pursuant thereto.

30 (e) Upon receipt of an application for renewal of any local license, the director shall set a
31 hearing in accordance with the requirements of section 24-514 if there is reason to believe that:

32 1)The licensee is not in full compliance with the Colorado ~~Medical~~ Marijuana Code,
33 this article XII, or any other applicable state or city law or regulation; or

1 (h) All applications for renewal of a research and development license shall include a social
2 impact plan as required in section 24-507. The social impact plan submitted at renewal shall also
3 identify outcomes resulting from the social impact plan in place during the previous licensing year.

4 **Sec. 24-514. – Disciplinary actions; sanctions; penalties.**

5 (b) *Penalties.* In lieu of the maximum fine for license violations set forth in section 32-30(c),
6 the director is hereby authorized to impose civil penalties for license violations to the same extent
7 and according to the same standards as are utilized by the Colorado Marijuana Enforcement
8 Division in imposing fines for state license violations under the Colorado ~~Medical~~ Marijuana Code
9 and any and all applicable rules and regulations adopted pursuant thereto.

10 **Sec. 33-46. – Definitions.**

11 **Section 2.** Article II of Chapter 32 shall be amended by adding the language underlined
12 and deleting the language stricken to read as follows:

13 **Sec. 32-93. – Medical marijuana licensing.**

14 Application and license fees for medical marijuana centers, medical marijuana-infused
15 products manufacturers, medical marijuana optional premises cultivation facilities, medical
16 marijuana testing facilities, medical marijuana transporters, ~~and~~ medical marijuana off-premises
17 storage facilities, and medical marijuana research and development facilities are as follows:

- 18 (1) Application fees: for all classes of licenses \$2,000.00
- 19 (2) Criminal background check fee, per person checked Actual costs
- 20 (3) License fee, per year, for all classes of licenses \$3,000.00
- 21 (4) Transfer of ownership, plus cost of background check \$100.00
- 22 (5) Transfer of location \$750.00
- 23 (6) Modification of premises \$150.00

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COMMITTEE APPROVAL DATE: March 17, 2020 (by Consent)

MAYOR-COUNCIL DATE: March 24, 2020 (by Consent)

PASSED BY THE COUNCIL: _____
April 13, 2020

- PRESIDENT

APPROVED: _____ - MAYOR _____

ATTEST: _____ - CLERK AND RECORDER,
EX-OFFICIO CLERK OF THE
CITY AND COUNTY OF DENVER

NOTICE PUBLISHED IN THE DAILY JOURNAL: _____; _____

PREPARED BY: Reginald Nubine, Assistant City Attorney DATE: March 24, 2020

Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to § 3.2.6 of the Charter.

Kristin Bronson, Denver City Attorney

BY: *Kristin Bronson*, Assistant City Attorney DATE: Mar 26, 2020