

1 **BY AUTHORITY**

2 ORDINANCE NO. _____

COUNCIL BILL NO. _____

3 SERIES OF 2015

COMMITTEE OF REFERENCE:

4 **A BILL**

5 **For an Ordinance amending Article V of Chapter 38, Offenses Relating to Drugs**
6 **and Intoxicants, by adding certain provisions concerning the non-licensed**
7 **cultivation of marijuana.**

8 **WHEREAS**, Article XVIII, Sections 14 and 16 of the Colorado Constitution (Amendments
9 20 and 64, respectively), authorize persons to grow limited amounts of marijuana or to
10 assist others in growing marijuana; and

11 **WHEREAS**, both Amendment 20 and Amendment 64 are silent on the question of how
12 and where marijuana plants may be grown or processed for medical or personal use; and

13 **WHEREAS**, the zoning code currently limits the cultivation of marijuana outside of a
14 licensed marijuana facility to a maximum of 12 plants in a completely enclosed structure,
15 but only for dwelling units, but Denver codes and regulations are silent for other non-
16 licensed locations; and

17 **WHEREAS**, this gap in regulation has resulted in a proliferation of large-scale, non-
18 licensed and unregulated marijuana grow operations that present significant health and
19 public safety concerns with multiple and persistent violations of city building, electrical,
20 fire, and environmental safety regulations; and

21 **WHEREAS**, the marijuana produced by these large-scale, unregulated cultivation
22 operations cannot be tracked, making it virtually impossible to verify that this marijuana is
23 distributed in accordance with all applicable laws.

24 **NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE CITY AND**
25 **COUNTY OF DENVER:**

26 **Section 1.** Section 38-178 (Non-licensed Marijuana Cultivation) of the Denver Revised
27 Municipal Code shall be amended by adding the language underlined, and deleting the
28 language stricken, to read as follows:

29 **Sec. 38-178. Non-licensed Marijuana Cultivation.**

- 30 (a) Legislative Intent. The city council hereby finds and declares that the proliferation of large-
31 scale, non-licensed, and unregulated marijuana cultivation operations poses a significant threat
32 to the health, safety, and security of all citizens of the City and County of Denver. The city
33 council finds that law enforcement and other city agencies report increased violations of criminal
34 laws along with building, electrical, and fire codes in these large cultivation operations. It is,
35 therefore, the intent of the city council to place reasonable and necessary restrictions on the
36 cultivation of marijuana outside of a licensed marijuana cultivation facility.

1 (b) It shall be unlawful for any person, alone or in concert with other persons, to possess or cultivate
2 more than thirty-six (36) marijuana plants on any zone lot in the city, except in a licensed
3 marijuana cultivation facility and in compliance with all applicable state and city laws, and all
4 rules and regulations promulgated thereunder.

5 (c) It shall be unlawful for any person who owns, manages, operates or otherwise controls the use
6 of any zone lot to allow more than thirty-six (36) marijuana plants to be possessed or cultivated
7 on the zone lot, except in a licensed marijuana cultivation facility and in compliance with all
8 applicable state and city laws, and all rules and regulations promulgated thereunder.

9 (d) It shall be unlawful for any person, alone or in concert with other persons, to cultivate marijuana
10 outside of a completely enclosed structure.

11 (e) Exceptions:

12 1. Nothing in this section shall be construed to allow the cultivation of marijuana in any
13 number, manner, or location that is not allowed under the zoning code.

14 2. Nothing in this section shall prohibit the cultivation of marijuana by residents of a dwelling
15 unit in compliance with the zoning code.

16 (f) For purposes of this section:

17 1. “Completely enclosed structure” has the meaning set forth in the zoning code.

18 2. “Cultivate” means the planting, growing, harvesting, storing, drying, trimming, or
19 processing of marijuana plants.

20 3. “Dwelling Unit” has the meaning set forth in the zoning code.

21 4. “Marijuana plant” means all parts of the plant of the genus cannabis, whether growing or
22 not, including but not limited to immature and mature plants, and any seeds, leaves,
23 stalks, and flowers, without regard for cannabinoid concentration levels.

24 5. “Marijuana cultivation facility” means an “optional premises cultivation facility” or a “retail
25 marijuana cultivation facility” as defined in the Colorado Medical Marijuana Code, §12-
26 43.3-104, C.R.S., as amended, and the Colorado Retail Marijuana Code, §12-43.4-103,
27 C.R.S., as amended.

28 6. “Zone Lot” has the meaning set forth in the zoning code, except that the minimum zone
29 lot size for the cultivation of marijuana outside of a dwelling unit shall be 3,000 square
30 feet and the minimum zone lot width shall be 25 feet.

31
32 COMMITTEE APPROVAL DATE:

1 MAYOR-COUNCIL DATE:
2 PASSED BY THE COUNCIL: _____, 2015
3 _____ - PRESIDENT
4 APPROVED: _____ - MAYOR _____, 2015
5 ATTEST: _____ - CLERK AND RECORDER,
6 EX-OFFICIO CLERK OF THE
7 CITY AND COUNTY OF DENVER

8
9 NOTICE PUBLISHED IN THE DAILY JOURNAL: _____, 2015; _____, 2015

10 PREPARED BY: Marley Bordovsky, Assistant City Attorney

11 DATE: _____, 2015

12 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of the
13 City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
14 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to §
15 3.2.6 of the Charter.

16 D. Scott Martinez, Denver City Attorney

17 BY: _____, Assistant City Attorney DATE: _____, 2015

DRAFT