

**BY AUTHORITY**

ORDINANCE NO. \_\_\_\_\_  
SERIES OF 2015

COUNCIL BILL NO. CB15-0109  
COMMITTEE OF REFERENCE:  
Safety and Well-being Committee

**A BILL**

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (e) Exceptions:

- 22 1. Nothing in this section shall be construed to allow the cultivation of marijuana in any  
23 number, manner, or location that is not allowed under the zoning code.
- 24 2. Nothing in this section shall prohibit the cultivation of marijuana by residents of a  
25 dwelling unit in compliance with the zoning code.

26 (f) For purposes of this section:

- 27 1. “Completely enclosed structure” has the meaning set forth in the zoning code.
- 28 2. “Cultivate” means the planting, growing, harvesting, storing, drying, trimming, or  
29 processing of marijuana plants.
- 30 3. “Dwelling Unit” has the meaning set forth in the zoning code.

4. “Marijuana plant” means all parts of the plant of the genus cannabis, whether growing or not, including but not limited to immature and mature plants, and any seeds, leaves, stalks, and flowers, without regard for cannabinoid concentration levels.
5. “Marijuana cultivation facility” means an “optional premises cultivation facility” or a “retail marijuana cultivation facility” as defined in the Colorado Medical Marijuana Code, §12-43.3-104, C.R.S., as amended, and the Colorado Retail Marijuana Code, §12-43.4-103, C.R.S., as amended.
6. “Zone Lot” has the meaning set forth in the zoning code, except that the minimum zone lot size for the cultivation of marijuana outside of a dwelling unit shall be 3,000 square feet and the minimum zone lot width shall be 25 feet.

COMMITTEE APPROVAL DATE: March 3, 2015

MAYOR-COUNCIL DATE: March 10, 2015

PASSED BY THE COUNCIL: \_\_\_\_\_, 2015

\_\_\_\_\_ - PRESIDENT

APPROVED: \_\_\_\_\_ - MAYOR \_\_\_\_\_, 2015

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

NOTICE PUBLISHED IN THE DAILY JOURNAL: \_\_\_\_\_, 2015; \_\_\_\_\_, 2015

PREPARED BY: Marley Bordovsky, Assistant City Attorney, DATE: March 12, 2015

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.

D. Scott Martinez, Denver City Attorney

BY: \_\_\_\_\_, Assistant City Attorney      DATE: \_\_\_\_\_, 2015