

1
2
3 BY AUTHORITY

4 ORDINANCE NO. _____
5 SERIES OF 2013

COUNCIL BILL NO. CB13-0570
COMMITTEE OF REFERENCE:
Special Issues: Amendment 64

7 A BILL

8 For an ordinance concerning the regulation and licensing of retail marijuana
9 establishments, adopting the Denver Retail Marijuana Code, and making conforming
10 amendments to the Denver Medical Marijuana Code.
11

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

13 **Section 1.** Amend the title of Chapter 6, D.R.M.C. by adding the language underlined, to read as
14 follows:

15 **Chapter 6**

16 **Alcohol Beverages and Retail Marijuana**

17 **Section 2.** Amend Chapter 6, D.R.M.C. by adding a new Article V, to read as follows:

18 **ARTICLE V**

19 **DENVER RETAIL MARIJUANA CODE**

20 **Sec. 6-200. Purpose and legislative intent.**

21 Section 16 of Article XVIII of the Colorado Constitution, also commonly known as
22 Amendment 64 of 2012, authorizes a system of state licensing for businesses engaging in the
23 cultivation, testing, manufacturing, and retail sale of marijuana, collectively referred to as
24 “marijuana establishments” by the constitution. Subsection 16 (5)(f) of Article XVIII allows
25 localities, within their respective jurisdictions: to prohibit state licensing of marijuana
26 establishments; to regulate the time, place, and manner in which marijuana establishments may
27 operate; and to limit the total number of marijuana establishments. The authority of localities to
28 prohibit or regulate marijuana establishments within their respective jurisdictions, including the
29 authority to engage in local licensing of marijuana establishments, is also reflected in various
30 provisions of the Colorado Retail Marijuana Code, Article 43.4 of Title 12, C.R.S. The purpose of
31 this article V is to exercise the authority of the City and County of Denver to allow state-licensed
32 marijuana establishments to exist in Denver in accordance with applicable state laws and
33 regulations as well as the additional local licensing requirements and other restrictions set forth
34 herein. This Article is adopted pursuant to the aforesaid constitutional and statutory authority, as

well as the city's plenary authority as a home rule city and county to adopt and enforce ordinances under its police power in order to preserve the public health, safety, and general welfare.

Sec. 6-201. Defined terms.

The definitions set forth in subsection 16 (2) of article XVIII of the Colorado Constitution as well as the Colorado Retail Marijuana Code, § 12-43.4-103, C.R.S., as amended, shall apply equally to this article V. In addition, the following terms shall have the meanings respectively assigned to them:

- (1) *Alcohol or drug treatment facility* means any facility located within a medical office or hospital, as these terms are defined by the zoning code, with the primary purpose of counseling or providing medical services to patients who suffer from addictions to alcohol or drugs.
- (2) *Child care establishment* means any child care establishment as defined by and regulated under chapter 11 of the City Code.
- (3) *Colorado Retail Marijuana Code or CRMC* means Article 43.4 of Title 12 of the Colorado Revised Statutes, as amended.
- (3) *Department* means the Denver department of excise and licenses.
- (4) *Director* means the director of the Denver department of excise and licenses.
- (5) *School* means a public or private preschool or a public or private elementary, middle, junior high, or high school.

Sec. 6-202. Effective date; applicability.

- (a) This article shall be effective October 1, 2013, and shall govern all applications submitted to the state licensing authority for licensing of any retail marijuana establishment in the city under the Colorado Retail Marijuana Code on and after that date.
- (b) Except as otherwise specifically provided herein, this article shall not affect or apply to any business licensed under the Colorado Medical Marijuana Code, article 43.3 of title 12, C.R.S. and the Denver Medical Marijuana Code, article XII of chapter 24, D.R.M.C.

Sec. 6-203. Transition provision.

1 (a) Prior to January 1, 2016, no retail marijuana store, retail marijuana cultivation facility, or
2 retail marijuana products manufacturer shall be licensed or otherwise permitted in the
3 city unless:

4 (1) The applicant for licensing of a retail marijuana establishment was, as of
5 October 1, 2013, operating in good standing a medical marijuana center, a
6 medical marijuana optional premises cultivation operation, or a medical
7 marijuana-infused products manufacturing operation; the applicant is, as of the
8 time of application for a local license under this Article V, currently licensed
9 under both the Colorado Medical Marijuana Code and the Denver Medical
10 Marijuana Code; and the applicant proposes to surrender the existing medical
11 marijuana licenses upon receipt of a retail marijuana license, thereby entirely
12 converting an existing medical marijuana establishment into a retail marijuana
13 establishment; or

14 (2) The applicant for licensing of a retail marijuana establishment was, as of
15 October 1, 2013, operating in good standing a medical marijuana center, a
16 medical marijuana optional premises cultivation operation, or a medical
17 marijuana-infused products manufacturing operation; the applicant is, as of the
18 time of application for a local license under this Article V, currently licensed
19 under both the Colorado Medical Marijuana Code and the Denver Medical
20 Marijuana Code; and the applicant proposes to retain the existing medical
21 marijuana license while locating a retail marijuana establishment under common
22 ownership at the same location to the extent allowed by the Colorado Retail
23 Marijuana Code and applicable state rules and regulations.

24 (b) Prior to January 1, 2016, any person who obtains a transfer of ownership of the state
25 and local licenses for a medical marijuana business that was operating in good standing
26 as of October 1, 2013 and is duly licensed under both the Colorado Medical Marijuana
27 Code and the Denver Medical Marijuana Code may qualify for licensing as a retail
28 marijuana establishment in the city as allowed by subsection (a) of this section.

29 (c) Prior to January 1, 2016, any person who obtains a change of location of the state and
30 local licenses for a medical marijuana business that was operating in good standing as
31 of October 1, 2013 and is duly licensed under both the Colorado Medical Marijuana
32 Code and the Denver Medical Marijuana Code may qualify for licensing as a retail
33 marijuana establishment in the new location as allowed by subsection (a) of this section;
34 provided, however, no change of location of a medical marijuana center license with the
35 intent to apply for licensing as a retail marijuana store in the new location shall be
36 approved unless and until a public hearing is conducted in accordance with section 6-
37 212 and the director has determined that the applicant qualifies for licensing of a retail
38 marijuana store in the new location. For any application involving transfer of location of
39 an existing medical marijuana center and conversion to or co-location of a retail
40 marijuana store at the new location, good cause for denial of the retail marijuana store
41 license shall include, in addition to the factors set forth in section 6-212, evidence that
42 the medical marijuana center was operated in a manner that adversely affected the

1 public health, welfare, or safety of the immediate neighborhood in which the center was
2 previously located.

3 (d) On and after January 1, 2016, any person who otherwise qualifies for licensing under
4 applicable state and city laws may apply for licensing of a retail marijuana establishment
5 in the city, regardless of whether or not the applicant is the owner of an existing medical
6 marijuana business in the city.

7 (e) On and after October 1, 2013, state and local licensing of retail marijuana testing
8 facilities shall be permitted in the city, regardless of whether or not a medical marijuana
9 testing facility previously existed in the location that is proposed for licensing.

10
11 **Sec. 6-204. Local licensing authority.**

12 (a) The director of the Denver department of excise and licenses is hereby designated
13 to act as the local licensing authority for the city in regard to retail marijuana
14 establishments. Under any and all circumstances in which state law requires
15 communication to the city by the state licensing authority or any other state agency in
16 regard to the licensing of retail marijuana establishments by the state, or in which state
17 law requires any review or approval by the city of any action taken by the state licensing
18 authority, the exclusive authority for receiving such communications and granting such
19 approvals shall be exercised by the director.

20 (b) The director is authorized to appoint one (1) or more hearing officers to conduct such
21 hearings as may be required by this article V to consult with the director with respect
22 thereto, and to certify the record or a summary thereof as required by the director along
23 with the hearing officer's recommended findings, conclusions and decision. Any party to
24 such hearing shall have an opportunity to file with the director written objections to any
25 such summary, and to the recommended findings, conclusions and decision of the
26 hearing officer, prior to the director's decision thereon.

27 (c) Under no circumstances shall the director receive or act upon any application for local
28 licensing of a retail marijuana establishment in circumstances where the state has failed
29 to act in accordance with section 16 of article XVIII of the Colorado Constitution, it being
30 the intent of this article that no retail marijuana establishment may lawfully exist in
31 Denver absent the issuance of a state license and full regulatory oversight of the retail
32 marijuana establishment by the state as well as the city. Accordingly, the director shall
33 not receive or act upon any application for licensing submitted independently and in lieu
34 of state licensing:

35 (1) If state has failed to begin receiving and processing applications for state
36 licensing by October 1, 2013 in accordance with paragraph 16(5)(g) of Article
37 XVIII of the Colorado Constitution;

- (2) If the state fails to act within ninety (90) days on any specific application for licensing of a retail marijuana establishment in accordance with paragraph 16(5)(g)(III) of Article XVIII of the Colorado Constitution; or
- (3) If the state has not issued any retail marijuana licenses by January 1, 2014 in accordance with paragraph 16(5)(h) of Article XVIII of the Colorado Constitution.

Sec. 6-205. Relationship to Colorado Retail Marijuana Code; other laws.

Except as otherwise specifically provided herein, this article V incorporates the requirements and procedures set forth in the Colorado Retail Marijuana Code. In the event of any conflict between the provisions of this article V and the provisions of the Colorado Retail Marijuana Code or any other applicable state or local law, the more restrictive provision shall control.

Sec. 6-206. Unlawful Acts.

- (a) It shall be unlawful for any person to operate any retail marijuana establishment in the city without a license duly issued therefor by the state licensing authority under the Colorado Retail Marijuana Code and compliance with any and all applicable state laws.
- (b) It shall be unlawful for any person to operate any retail marijuana establishment in the city without a license duly issued therefor by the director under this article V and compliance with any and all applicable city laws.
- (c) It shall be unlawful for any person to engage in any form of business or commerce involving the cultivation, processing, manufacturing, storage, sale, distribution or consumption of marijuana other than those forms of businesses and commerce that are expressly contemplated by section 16 of article XVIII of the Colorado Constitution, the Colorado Retail Marijuana Code, or the Colorado Medical Marijuana Code.
- (d) It shall be unlawful for any person to sell marijuana or marijuana products at a licensed retail marijuana store at any time other than between the hours of 8:00 a.m. and 7:00 p.m. daily.

Sec. 6-207. Classes of licensing authorized.

For the purpose of regulating the cultivation, manufacture, testing, distribution, offering for sale, and sale of retail marijuana, the director in the director's discretion, upon application in the prescribed form made to the director, may issue and grant to the applicant a local license from any of the following classes, and the city hereby authorizes issuance of the licenses of the following classes by the state licensing authority in locations in the city, subject to the provisions and restrictions set forth in this article V:

- (1) Retail marijuana store.

- (2) Retail marijuana cultivation facility.
- (3) Retail marijuana products manufacturer.
- (4) Retail marijuana testing facility.

Sec. 6-209. Screening and response to state license applications.

- (a) Upon receipt of notice from the state licensing authority of any application for a license under the Colorado Retail Marijuana Code, the director shall:
 - (1) For all applications received prior to January 1, 2016, determine whether the applicant qualifies for licensing as an existing medical marijuana business in the city, to the extent allowed by section 6-203. If the director makes an initial determination that the applicant does not qualify for licensing prior to January 1, 2016, the director shall, no later than forty-five (45) days from the date the application was originally received by the state licensing authority, notify the state licensing authority and the applicant for state licensing in writing that the application is disapproved by the city. The failure of the director to make such a determination upon the initial review of a state license application shall not preclude the director from later determining that the applicant does not qualify for licensing prior to January, 2016 as provided in Section 6-203, and disapprove the issuance of a state or city license on this basis.
 - (2) Determine, in consultation with the manager of the department of community planning and development, whether or not the location proposed for licensing complies with any and all zoning and land use laws of the city, and any and all restrictions on location of retail marijuana establishments set forth in this Article V. If the director makes an initial determination that the proposed license would be in violation of any zoning law or other restriction on location set forth in city laws, the director shall, no later than forty-five (45) days from the date the application was originally received by the state licensing authority, notify the state licensing authority and the applicant for state licensing in writing that the application is disapproved by the city. The failure of the director to make such a determination upon the initial review of a state license application shall not preclude the director from later determining that proposed license is in violation of city zoning laws or any other restriction on location set forth in city laws, and disapprove the issuance of a state or city license on this basis.
 - (3) For any application that is not disapproved as provided in paragraphs (1) or (2) of this subsection (a), the director shall notify the state licensing authority and the applicant for state licensing in writing that the city's further consideration of the application is subject to a local licensing process, and that the city's ultimate decision to approve or disapprove the issuance of the state license in Denver is

1 subject to the completion of the local licensing process as set forth in this article
2 V, after which the city will notify the state licensing authority in writing of whether
3 or not the retail marijuana establishment proposed in the application has or has
4 not been approved by the city.

5
6 **Sec. 6-210. Licensing requirements—Provisions applicable to all licenses.**

- 7 (a) *Criteria for licensing.* The director shall consider and act upon all local license
8 applications in accordance with the standards and procedures set forth in this article V.
9 The director shall deny any application for a license that is not in full compliance with
10 the Colorado Retail Marijuana Code, this article V, and any other applicable state or city
11 law or regulation. The director shall also deny any application that contains any false or
12 incomplete information.
13
- 14 (b) *Application forms and supplemental materials.* All applications for local licensing shall
15 be made upon forms provided by the director and shall include such supplemental
16 materials as required by the Colorado Retail Marijuana Code and rules adopted
17 pursuant thereto, including by way of example: proof of possession of the licensed
18 premises, disclosures related to ownership of the proposed business, fingerprints of the
19 applicants, building plans, and security plans. To the extent any of the foregoing
20 supplemental materials have been included with the applicant's state license
21 application and forwarded to the city by the state licensing authority, the director may
22 rely upon the information forwarded from the state without requiring re-submittal of the
23 same materials in conjunction with the local license application. The director may, at
24 the director's discretion, require additional documentation associated with the
25 application as may be necessary to enforce the requirements of the Colorado Retail
26 Marijuana Code and this article V.
27
- 28 (c) *Notice of applications to departments and agencies.* Upon receipt of an application
29 for any class of local license, the director shall give notice of the application to the
30 department of community planning and development, the department of finance, the
31 department of environmental health, the Denver Police Department, and the Denver
32 Fire Department. Any applicant for a license under this article V shall obtain any and all
33 necessary permits, licenses and other regulatory approvals from the other affected city
34 departments and agencies prior to the issuance of a license under this article V.
35
- 36 (d) *Background checks and determination of good character and state residency.* Prior
37 to the issuance of any local license, the director shall make a finding and determination
38 as to the good moral character of the applicant and compliance with state residency
39 requirements in accordance with the standards and procedures set forth in the
40 Colorado Retail Marijuana Code. In so doing, the director may incorporate any findings
41 as to good character and residency previously made by the state licensing authority,

and shall not be required to perform a criminal background check if the state licensing authority has already performed a criminal background check on the applicant.

Sec. 6-211. Licensing requirements—Retail Marijuana Stores.

The following requirements shall apply to the issuance of any local license for a retail marijuana store:

- (a) *Tax bond.* Before the director issues a local license to an applicant for a retail marijuana store, the applicant shall procure and file with the city evidence of good and sufficient bond in the amount of twenty thousand dollars (\$20,000.00) with corporate surety thereon duly licensed to do business with the State of Colorado, approved as to form by the city attorney, and conditioned that the applicant shall report and pay all city sales and use taxes as provided by law. A corporate surety shall not be required to make payments to the city claiming under such bond until a final determination of failure to pay taxes due to the city has been made by the manager of finance or a court of competent jurisdiction. All bonds required pursuant to this subsection shall be renewed at such times as the bondholder's license is renewed. The renewal may be accomplished through a continuation certificate issued by the surety.
- (b) *Area maps.* All applications for retail marijuana store licensing submitted pursuant to this article V shall include an area map drawn to scale indicating land uses of other properties within a 1,000-foot radius of the property upon which the applicant is seeking a license. The map shall depict the proximity to the property to any school or child care establishment; to any other retail marijuana store; to any medical marijuana center, or to any alcohol or drug treatment facility.
- (c) *Prohibited locations.* No retail marijuana store license shall be issued for the following locations:
 - (1) In any residential zone district as defined by the zoning code of the city, in any MS-2, MS-2x, MX-2, MX-2A or MX-2x zone district as defined by the zoning code of the city, or in any location where retail sales are prohibited by the zoning code or by any ordinance governing a planned unit development. The restriction against licensing a retail marijuana store in any MS-2, MS-2x, MX-2, MX-2A or MX-2x zone district shall not apply to any location where the director previously issued a medical marijuana center license under article XII of chapter 24 and a licensed medical marijuana center has existed in continuous operations at the subject location since the time of original licensing.
 - (2) Within one thousand (1,000) feet of any school, with the distance computed by direct measurement from the nearest property line of the land used for school to

the nearest portion of the building in which the retail marijuana store is located, using a route of direct pedestrian access.

(3) Within one thousand (1,000) feet of any other retail marijuana store or medical marijuana center licensed under article XII of chapter 24, with the distance computed by direct measurement from the nearest portion of the building in which one store or center is located to the nearest portion of the building in which the other store or center is located, using a route of direct pedestrian access. This restriction shall not apply to any location proposed for licensing as a retail marijuana store where the director previously issued a medical marijuana center license under article XII of chapter 24 and a licensed medical marijuana center has existed in continuous operations at the subject location since the time of original licensing, nor shall this restriction be construed to prohibit the licensing of a retail marijuana store under common ownership with and at the same location as a licensed medical marijuana center.

(4) Within one thousand (1,000) feet of any child care establishment or alcohol or drug treatment facility. The 1,000-foot distance shall be computed by direct measurement from the nearest property line of the land used for the child care establishment or alcohol or drug treatment facility to the nearest portion of the property upon which the retail marijuana store is proposed to be located, using a route of direct pedestrian access. This restriction shall not apply to any location where the director previously issued a medical marijuana center license under article XII of chapter 24, and a licensed medical marijuana center has existed in continuous operations at the subject location since the time of original licensing.

(d) *Off-site delivery of product by licensee prohibited.* All sales and distribution of retail marijuana by a licensed retail marijuana store shall occur only upon the licensed premises, and the licensee shall be strictly prohibited from delivering retail marijuana to any person at any other location.

(e) *Signs and advertising.*

(1) Any person or premises licensed as a retail marijuana store shall comply with all city ordinances regulating signs and advertising. In addition, no licensed retail marijuana store shall use any advertising material that is misleading, deceptive, or false, or that, as evidenced either by the content of the advertising material or by the medium or the manner in which the advertising is disseminated, is designed to appeal to minors.

(2) Except as otherwise provided in this subsection (2), it shall be unlawful for any person licensed under this article or any other person to advertise any retail marijuana or retail marijuana product anywhere in the city where the advertisement is visible to members of the public from any street, sidewalk, park

1 or other public place, including advertising utilizing any of the following media:
2 any billboard or other outdoor general advertising device as defined by the
3 zoning code; any sign mounted on a vehicle, any hand-held or other portable
4 sign; or any handbill, leaflet or flier directly handed to any person in a public
5 place, left upon a motor vehicle, or posted upon any public or private property
6 without the consent of the property owner. The prohibition set forth in this
7 paragraph (3) shall not apply to:

- 8
- 9 a. Any sign located on the same zone lot as a retail marijuana store which exists
10 solely for the purpose of identifying the location of the retail marijuana store
11 and which otherwise complies with the Denver Zoning Code and any other
12 applicable city laws and regulations; or
- 13
- 14 b. Any advertisement contained within a newspaper, magazine, or other
15 periodical of general circulation within the city; or
- 16
- 17 c. Advertising which is purely incidental to sponsorship of a charitable event by a
18 retail marijuana store or a retail marijuana products manufacturer.

19

20 (5) For purposes of this subsection (e), the terms "advertise," "advertising" or
21 "advertisement" mean the act of drawing the public's attention to a retail
22 marijuana store or retail marijuana products manufacturer in order to promote
23 the sale of retail marijuana by the store or the manufacturer.

- 24
- 25 (f) *Co-location of retail marijuana store and medical marijuana center.* A retail
26 marijuana store in common ownership with a medical marijuana center may be licensed
27 in the same location and may share the same licensed premises, to the extent allowed
28 by the CRMC and regulations promulgated by the Colorado Marijuana Enforcement
29 Division.

30

31

32 **Sec. 6-212. Licensing requirements—Retail Marijuana Stores—Public hearing requirement.**

33

34 (a) *Public notice; posting and publication*

- 35 (1) Upon receipt of an application for a local retail marijuana store license,
36 the director shall schedule a public hearing upon the application not less
37 than thirty days from the date of the application and shall post and publish
38 the public notice thereof not less than ten days prior to such hearing.
39 Public notice shall be given by the posting of a sign in a conspicuous
40 place on the premises for which application has been made and by
41 publication in a newspaper of general circulation.

- 42
- 43 (2) Notice given by posting shall include a sign of suitable material, not less

1 than twenty-two inches wide and twenty-six inches high, composed of
2 letters not less than one inch in height and stating the type of license
3 applied for, the date of the application, the date of the hearing, and the
4 name and address of the applicant, and such other information as may be
5 required to fully apprise the public of the nature of the application. If the
6 applicant is a partnership, the sign shall contain the names and
7 addresses of all partners, and if the applicant is a corporation,
8 association, or other organization, the sign shall contain the names and
9 addresses of the president, vice-president, secretary, and manager or
10 other managing officers.
11

12 (3) Notice given by publication shall contain the same information as that
13 required for signs.
14

15 (4) If the building in which retail marijuana is to be sold is in existence at
16 the time of the application, any sign posted as required in subsections (1)
17 and (2) of this section shall be placed so as to be conspicuous and plainly
18 visible to the general public. If the building is not constructed at the time of
19 the application, the applicant shall post the premises upon which the
20 building is to be constructed in such a manner that the notice shall be
21 conspicuous and plainly visible to the general public.
22

23
24 (b) *Conduct of public hearings.*
25

26 (1) At the public hearing held pursuant to this section, any party in interest
27 shall be allowed to present evidence and to cross-examine witnesses. As
28 used in this section, "party in interest" means any of the following:
29

30 a. The applicant;

31 b. An adult resident of the neighborhood under consideration;

32 c. The owner or manager of a business located in the neighborhood under
33 consideration;

34 d. An authorized representative of a registered neighborhood organization
35 that encompasses all or part of the neighborhood under consideration;
36 or
37

38 e. Any member of city council elected from a district that encompasses all
39 or any part of the neighborhood under consideration.
40

41 (2) As used in this section, the term "neighborhood" shall have the same
42 meaning as the director utilizes for purposes of issuance of liquor
43 licenses.
44
45
46
47

1 (3) Any party in interest may request that the director schedule a public
2 hearing on or after 5:00 p.m. on any regular business day of the city.

3
4 (4) The director, in the director's discretion, may limit the presentation of
5 evidence and cross-examination so as to prevent repetitive and
6 cumulative evidence or examination.

7
8 (c) *Results of investigation; decision of director.*
9

10 (1) Not less than five days prior to the date of hearing, the director shall
11 make known the director's findings based on the director's investigation in
12 writing to the applicant and other interested parties. The director has
13 authority to refuse to issue any retail marijuana store license for good
14 cause, subject to judicial review. For purposes of this subsection (c), the
15 term "good cause" means:

16
17 a. The applicant has violated, does not meet, or has failed to comply with
18 any of the terms, conditions, or provisions of the Colorado Retail
19 Marijuana Code or any rule and regulations promulgated pursuant
20 thereto, or this article V or any rules and regulations promulgated
21 pursuant to this article;
22

23 b. With respect to a second or additional retail marijuana store license
24 proposed by the same applicant, the director shall consider the effect
25 on competition of the granting or disapproving of additional licenses to
26 such licensee, and no application for a second or additional license that
27 would have the effect of restraining competition shall be approved.
28

29 c. For applications to license any retail marijuana store in the same
30 location where any medical marijuana center is or has previously been
31 licensed, evidence that the licensed premises have been previously
32 operated in a manner that adversely affects the public health, welfare,
33 or safety of the immediate neighborhood in which the establishment is
34 located.
35

36 d. Evidence that the issuance of the license will adversely impact the
37 health, welfare or public safety of the neighborhood in which the retail
38 marijuana store is proposed to be located.
39

40 (2) Before entering any decision approving or denying the application, the
41 director shall consider, except where this article specifically provides
42 otherwise, the facts and evidence adduced as a result of its investigation
43 and the public hearing required by this section, and any other pertinent

1 matters affecting the qualifications of the applicant for the conduct of
2 business as a retail marijuana store.

3
4 (3) For new retail marijuana store licenses issued on and after January 1,
5 2016, in addition to the standards set forth in subsection (c) of this
6 section, the director shall also consider:

7
8 a. The reasonable requirements of the neighborhood and the desires of
9 the adult inhabitants as evidenced by petitions, remonstrances, or
10 otherwise;

11
12 b. The number and availability of other retail marijuana stores in or near
13 the neighborhood under consideration; and

14
15 c. Whether the issuance of such license would result in or add to an
16 undue concentration of retail marijuana store licenses and, as a result,
17 require the use of additional law enforcement resources; and

18
19 (4) Any decision of the director approving or denying an application shall
20 be in writing stating the reasons therefor, within thirty days after the date of
21 the public hearing, and a copy of such decision shall be sent by certified
22 mail to the applicant at the address shown in the application and to the
23 state licensing authority.
24

25 **Sec. 6-613. - Licensing requirements—Retail marijuana products manufacturer.**

26 In addition to the requirements set forth in the Colorado Retail Marijuana Code and any
27 rules or regulations adopted pursuant thereto, the following requirements shall apply to the
28 issuance of any local license for medical marijuana-infused products manufacturing:

29 (a) *Compliance with zoning; grandfathering of existing locations.* A local license for a retail
30 marijuana products manufacturer may be issued for any zone lot where "food
31 preparation and sales" or "manufacturing, fabrication and assembly, general" is
32 permitted by the Denver Zoning Code. Any zone lot where any person qualified as a
33 "locally approved" medical marijuana-infused product manufacturer as of July 1, 2010,
34 in accordance with subsection 24-411(c) of this code and the Colorado Medical
35 Marijuana Code may also qualify for licensing under this section provided such
36 manufacturing is considered a compliant or nonconforming use in that location under
37 the zoning code.
38

39 (d) *Sanitation, product labeling, and public health standards.* Sanitary standards for
40 retail marijuana products manufacturing shall be as provided by the Colorado Retail
41 Marijuana Code and any other applicable state laws and regulations. Any and all retail
42 marijuana products packaged by a licensed retail marijuana products manufacturer
43 shall be labeled in accordance with state law.

- 1
- 2 (e) *Co-location of retail marijuana products manufacturing facility and medical*
- 3 *marijuana-infused products business.* A retail marijuana products manufacturing facility
- 4 in common ownership with a medical marijuana-infused products business may be
- 5 licensed at the same location and may share the same licensed premises, to the extent
- 6 allowed by the CRMC and regulations promulgated by the Colorado Marijuana
- 7 Enforcement Division.
- 8

9 **Sec. 6-614. Licensing requirements—Retail marijuana cultivation facility**

10 In addition to the requirements set forth in the Colorado Retail Marijuana Code and any

11 rules or regulations adopted pursuant thereto, the following requirements shall apply to the

12 issuance of any local license for a retail marijuana cultivation license:

13 (a) *Compliance with current zoning.*

14

- 15 (1) A local retail marijuana cultivation facility license may be issued in any zone
- 16 district where, at the time of application for the license, plant husbandry is
- 17 authorized as a permitted use under the zoning code.
- 18
- 19 (2) Notwithstanding the requirement set forth in paragraph (1) of this subsection (a),
- 20 a retail marijuana cultivation license may be issued in a location where plant
- 21 husbandry is not a permitted use but is already occurring as a compliant or
- 22 nonconforming use under the zoning code, if and only if the applicant meets the
- 23 following requirements:
- 24
- 25 a. A zoning permit for plant husbandry was applied for upon the same zone lot
- 26 on or before July 1, 2010;
- 27
- 28 b. The applicant or any person from whom the applicant acquired a medical
- 29 marijuana business previously applied for an optional premises cultivation
- 30 license upon the same zone lot with the state medical marijuana licensing
- 31 authority on or before August 1, 2010, in accordance with § 12-43.3-103(1)(b),
- 32 C.R.S; and
- 33
- 34 c. The applicant or any person from whom the applicant acquired a medical
- 35 marijuana business can produce to the satisfaction of the director
- 36 documentary or other empirical evidence that the applicant had in fact
- 37 commenced the cultivation of medical marijuana on the zone lot prior to
- 38 January 1, 2011.
- 39
- 40 (3) Any retail marijuana cultivation license granted pursuant to subsection (a)(2) of
- 41 this section upon a zone lot where plant husbandry is not a permitted use under
- 42 the zoning code shall be subject to a public hearing prior to any renewal of the

1 license. The director shall assign a hearing officer to conduct the public hearing.
2 The hearing shall not be conducted until the director has posted or caused to be
3 posted a notice of hearing on the licensed premises for a period of ten (10) days,
4 and provided notice to each of the following at least ten (10) days prior to the
5 hearing: the licensee; the city council representative for the district in which the
6 licensed premises is located; and any registered neighborhood association
7 entitled to receive notice as provided in section 12-96. At the public hearing, the
8 incumbent licensee and any other interested party shall be entitled to speak and
9 present evidence supporting or opposing renewal of the license in the location
10 where plant husbandry is not a permitted use. The hearing officer shall receive
11 and give due consideration to any evidence or testimony submitted by the city
12 council member representing the district in which the licensed premises are
13 located, either in support or opposition to the renewal of the license. The retail
14 marijuana cultivation license shall be eligible for renewal in its current compliant
15 or nonconforming location unless it is shown by a preponderance of the
16 evidence presented at the hearing that:

- 17
- 18 a. The existence of the retail marijuana cultivation facility on the licensed
19 premises has frustrated the implementation of the city's comprehensive plan
20 and any adopted neighborhood plan applicable to the subject property;
21
 - 22 b. The existence of the retail marijuana cultivation facility on the licensed
23 premises has negatively affected nearby properties or the neighborhood in
24 general, including by way of example any adverse effects caused by
25 excessive noise, odors, vehicular traffic, or any negative effects on nearby
26 property values;
27
 - 28 c. The existence of the retail marijuana cultivation facility has caused crime rates
29 to increase in the surrounding neighborhood; or
30
 - 31 d. The continued existence of a licensed retail marijuana cultivation facility in the
32 subject location will have a deleterious impact on public health, safety and the
33 general welfare of the neighborhood or the city.
34

- 35 (b) *Co-location of a retail marijuana cultivation facility and a medical marijuana optional*
36 *premises cultivation business.* A retail marijuana cultivation facility in common
37 ownership with a medical marijuana optional premises cultivation business may be
38 licensed at the same location and may share the same licensed premises, to the extent
39 allowed by the CRMC and regulations promulgated by the Colorado Marijuana
40 Enforcement Division.
41

42 **Sec. 6-615. Licensing Requirments--Retail marijuana testing facility.**

1 In addition to the requirements set forth in the Colorado Retail Marijuana Code and any
2 rules or regulations adopted pursuant thereto, the following requirement shall apply to the
3 issuance of any local license for a retail marijuana testing facility: a local retail marijuana testing
4 facility license may be issued in any zone district where, at the time of application for the license,
5 the land use denominated “laboratory, research, development, and technological services” is
6 allowed by the zoning code.

7
8 **Sec. 6-616. Transfer of ownership.**

- 9 (a) *In general.* Transfer of ownership of any local license issued pursuant to this article V
10 shall be governed by the standards and procedures set forth in the Colorado Retail
11 Marijuana Code and any regulations adopted pursuant thereto, and the director shall
12 administer transfers of local licenses in the same manner as the state licensing
13 authority administers transfers of state licenses.
14
- 15 (b) *Retail marijuana store licenses.* Any transfer of ownership of a retail marijuana store
16 license shall not affect any exemption that the licensed premises may enjoy from the
17 spacing or other location restrictions set forth in subsection 6-211 (c).
18
- 19 (c) *Retail marijuana products manufacturer license.* Any transfer of ownership of a retail
20 marijuana products manufacturer license shall not affect the ability of the new owner to
21 continue to operate under the transferred license in a compliant or nonconforming
22 location as allowed by subsection 6-613 (a).
23
- 24 (d) *Retail marijuana cultivation licenses.* Any retail marijuana cultivation license issued
25 pursuant to subsection 6-614 (a)(2) in a location where plant husbandry is not a
26 permitted use under the zoning code shall not be transferable to a new owner in that
27 location unless the applicant for the transfer proves to the satisfaction of the director
28 that:
29
- 30 (1) The transfer of ownership is required due to extraordinary circumstances forcing
31 the incumbent licensee to divest its interest in the existing retail marijuana
32 cultivation operation including, by way of example, death, divorce, bankruptcy,
33 court order, or any *force majeure* that may prevent the incumbent licensee from
34 continuing to operate in the subject location;
35
- 36 (2) The transfer of ownership is required due merely to corporate restructuring or
37 any other change in the legal structure of the incumbent owner and licensee; or
38
- 39 (3) In circumstances where the retail marijuana cultivation license is located at the
40 same location and under common ownership with an optional premises medical
41 marijuana cultivation license, the transfer of ownership is required because a
42 medical marijuana center or a medical marijuana-infused products

1 manufacturing license with which the optional premises cultivation license is
2 associated is being transferred to a new owner.

3
4 **Sec. 6-617. Change of location; modification of premises.**

5 Change of location of any license or any modification of the licensed premises shall be
6 governed by the standards and procedures set forth in the Colorado Retail Marijuana Code and
7 any regulations adopted pursuant thereto, and the director shall administer applications to change
8 location or modify premises in the same manner as the state licensing authority administers
9 changes of location and modification of premises for state licenses. Any proposed modification
10 and any new location to which an existing licensed business is transferred shall fully comply with
11 the spacing requirements and the requirements for conformance with current zoning as set forth
12 this article V.
13

14 **Sec. 6-618. Term of licenses; renewals.**

15 Any local license issued pursuant to this article V shall be valid for a period of one year
16 from the date of issuance. Any renewal of the license shall be governed by the standards and
17 procedures set forth in the Colorado Retail Marijuana Code and any regulations adopted pursuant
18 thereto, and the director shall administer license renewals in the same manner as the state
19 licensing authority administers renewals of state licenses, subject to the additional restrictions on
20 renewal of retail marijuana cultivations facility licenses in certain locations as provided in section 6-
21 614 (a)(3).
22

23 **Sec. 6-619. - Disciplinary actions; sanctions; penalties.**

- 24 (a) Procedures for investigation of license violations and for suspension, revocation or
25 other licensing sanctions as a result of any such violation shall be as provided in
26 Chapter 32 of the code and any rules and regulations promulgated by the director.
- 27 (b) In lieu of the maximum fine for license violations set forth in section 32-30 (c), the
28 director is hereby authorized to impose civil penalties for license violations to the same
29 extent and according to the same standards as are utilized by the Colorado Marijuana
30 Enforcement Division in imposing fines for state license violations under the Colorado
31 Retail Marijuana Code and any and all applicable rules and regulations adopted
32 pursuant thereto.
33

34 **Section 3.** Amend subsection 24-503 (a), D.R.M.C. concerning the authority of certain pre-
35 existing medical marijuana businesses to continue in operation pending final action on state and
36 local licensing, by the addition of a new paragraph (3), to read as follows:
37
38

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

- 2 (3) Notwithstanding the provisions of paragraphs (1) and (2) of this
3 subsection (a), if the owner of any pre-existing medical marijuana
4 business has not obtained both a state and city license to lawfully
5 continue in operation by July 1, 2014, the business shall cease operation
6 immediately as of that date. On and after July 1, 2014 it shall be unlawful
7 for any person to operate any business involving the cultivation,
8 manufacture or sale of medical marijuana or medical marijuana-infused
9 products without holding a current state and city license.

10
11
12 **Section 4.** Amend paragraph (3) of subsection (c) of section 24-508, D.R.M.C., by deleting
13 the language stricken and adding the language underlined, to read as follows:

14
15 **Sec. 24-508. Licensing requirements—Medical marijuana centers.**

- 16
17 (c) *Prohibited locations.* No medical marijuana center license shall be issued for the
18 following locations:

- 19
20 (3) Within one thousand (1,000) feet of any other medical marijuana center licensed
21 premises or of any premises licensed under article XI of this chapter 24 or any
22 retail marijuana store licensed under article V of chapter 6, with the distance
23 computed by direct measurement from the nearest portion of the building in
24 which ~~one (1) the~~ center is proposed to be located to the nearest portion of the
25 building in which the other center or the retail marijuana store is located, using a
26 route of direct pedestrian access. This restriction shall not apply to any location
27 where the director previously issued a medical marijuana dispensary license
28 under article XI of this **chapter 24**, a licensed dispensary commenced operations
29 at the subject location, and a licensed medical marijuana dispensary or center
30 has existed in continuous operations at the subject location since the time of
31 original licensing.

32
33 **Section 5.** Amend Article II of Chapter 32, D.R.M.C. concerning licensing fees by adding a
34 new section 32-92 to read as follows:

35
36
37
38 **Sec. 32-93. Marijuana licensing.**

39 Application and license fees for retail marijuana stores, retail marijuana
40 cultivation facilities, retail marijuana products manufacturers, and retail marijuana
41 testing facilities are as follows:

- (1) Annual operating fee, per year: \$5000 for all classes of licenses.
- (2) Criminal background check fee, per person checked : Actual costs
- (3) Transfer of ownership: \$100, plus cost of background check.
- (4) Transfer of location: \$750
- (5) Modification of premises: \$150

Section 6. Amend paragraph 21 of subsection (c) of section 37-50, D.R.M.C. by deleting the language stricken and adding the language underlined, to read as follows:

Sec. 39-50. Definitions.

(c) *Public Nuisance, Class one (1)*: Any parcel of real property, personal property, or motor vehicle on or in which any of the following illegal activity occurs, or which is used to commit, conduct, promote, facilitate, or aid the commission of or flight from any of the following activities. For purposes of this section, the illegal activity shall have the same definition as that contained in the section of the Colorado Revised Statute (C.R.S.), as amended, or the section of the Denver Revised Municipal Code (D.R.M.C.), as amended, listed after the illegal activity:

21. Keeping, maintaining, controlling, renting, or making available property for unlawful distribution or manufacture of controlled substances, C.R.S. § 18-18-411; or the unlawful possession of materials to make amphetamine and methamphetamine, C.R.S. § 18-18-412.5; or, the unlawful sale or distribution of materials to manufacture controlled substances, C.R.S. § 18-18-412.7; or possession of one or more chemicals or supplies or equipment with intent to manufacture a controlled substance, C.R.S. § 18-18-405; ~~or the unlawful cultivation, manufacturing, sale, offer for sale, or distribution of medical marijuana without a license, Art. XII, Chapter 24, D.R.M.C.;~~ or the unlawful cultivation, manufacturing, sale, offer for sale, or distribution of retail marijuana without a license, Art. V, Chapter 6, D.R.M.C.

Section 7. Amend subsection 12-96 (b), Denver Revised Municipal Code concerning required notification to registered neighborhood organizations by adding the following language to the table appearing in subsection (b):

Sec. 12-96. Notification.

(b) The following agencies of the city shall be responsible for the following notification:

Proposed Action Responsible City Agency for Notification

New application, and/or major modification to Excise and Licenses
premises and/or transfer of retail marijuana
store, retail marijuana cultivation facility, retail
marijuana products manufacturer, or retail
marijuana testing facility; or any action for
which a public hearing is required by state or
city retail marijuana licensing laws.

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COMMITTEE APPROVAL DATE: August 26, 2013.

MAYOR-COUNCIL DATE: N/A

PASSED BY THE COUNCIL _____ 2013

_____ - PRESIDENT

APPROVED: _____ - MAYOR _____ 2013

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

NOTICE PUBLISHED IN THE DAILY JOURNAL _____ 2013; _____ 2013

PREPARED BY: David W. Broadwell, Asst. City Attorney; DATE: August 28, 2013

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.

Douglas J. Friednash
City Attorney

BY: _____, _____ City Attorney

DATE: _____