

BY AUTHORITY

ORDINANCE NO. _____

COUNCIL BILL NO. 11-0645

SERIES OF _____

COMMITTEE OF REFERENCE:

Business, Workforce &
Sustainability Committee

A BILL

For an ordinance amending city laws related to the licensing of medical marijuana businesses.

Be it ordained by the council of the City and County of Denver:

Section 1. That section 24-411, D.R.M.C. shall be amended by deleting the language stricken and adding the language underlined, to read as follows:

Section 24-411. Transition provisions.

(a) *Intent of section.* By virtue of the adoption of HB 10-1284 and HB 11-1043, codified at Article 43.3 of Title 12, C.R.S. as the Colorado Medical Marijuana Code, the State of Colorado has provided for the regulation and licensing of certain commercial medical marijuana businesses. These licensing requirements are to be fully implemented by July 1, 2012. Prior to July 1, 2012, a "locally approved" medical marijuana business may lawfully commence or remain in business if the business meets certain requirements as set forth in section 12-43.3-103 of the state code. The intent and purpose of this section is to clarify the relationship of city and state law during the period from July 1, 2010 to July 1, 2012.

(b) *Medical marijuana centers.* For purposes of section 12-43.3-103(1)(a) of the Colorado Medical Marijuana Code, a business shall be deemed "locally approved" and potentially eligible for licensing as a medical marijuana center under the state code prior to July 1, 2012 if, on or before July 1, 2010, the business ~~is~~ was operating as a licensed medical marijuana dispensary in Denver in compliance with the requirements of this article XI or the business owner ~~has~~ or a previous owner of the same business had applied for a medical marijuana dispensary license in accordance with the requirements of this article XI and the application for a medical marijuana dispensary has not been denied by the Director. A licensed medical marijuana dispensary qualifying as a "locally approved" business within the meaning of this subsection (b) shall be potentially eligible for licensing under the Colorado Medical Marijuana Code as a medical marijuana center prior to July 1, 2012 regardless of any change of ownership or change of location of the business after July 1, 2010, so long as the business meets all applicable requirements for licensing as set forth in state and city laws.

(c) *Medical marijuana infused products manufacturers.* For purposes of section 12-43.3-103(1)(a) of the Colorado Medical Marijuana Code, a business shall be deemed "locally approved" and potentially eligible for licensing as a medical marijuana infused products manufacturer under the

1 state code prior to July 1, 2012 if:

- 2
- 3 (1) On or before July 1, 2010, the business owner ~~has~~ or a previous owner of the same
4 business had applied for or received any and all city licenses or permits generally applicable
5 to the manufacturing and wholesale distribution of products designed for human
6 consumption, including, but not limited to, edible products, ointments and tinctures; and
7
- 8 (2) The business is located or proposed to be located on a site where commercial
9 manufacturing and wholesale distribution of manufactured products is permitted by
10 applicable city zoning laws.
11

12 A medical marijuana infused products manufacturer qualifying as a "locally approved" business within
13 the meaning of this subsection (c) shall be potentially eligible for licensing under the Colorado Medical
14 Marijuana Code as a medical marijuana-infused products manufacturer prior to July 1, 2012
15 regardless of any change of ownership or change of location of the business after July 1, 2010, so
16 long as the business meets all applicable requirements for licensing as set forth in state and city laws.
17

18

19 (d) *Optional premises cultivation operations.* For purposes of section 12-43.3-103(1)(a) of the
20 Colorado Medical Marijuana Code, a business shall be deemed "locally approved" and potentially
21 eligible for licensing as an optional premises cultivation operation under the state code prior to July 1,
22 2012 if:

- 23
- 24 (1) On or before July 1, 2010 the business owner ~~has~~ or a previous owner of the
25 same business had applied for or received any and all city license and permits
26 generally applicable to commercial plant husbandry ~~and wholesale distribution of~~
27 ~~plant products~~ or was leasing or subleasing property for the purpose of medical
28 marijuana cultivation from another property owner or business owner who had
29 obtained such licenses and permits.
30
- 31 (2) The business is located or proposed to be located on a site where commercial plant
32 husbandry and wholesale distribution of plant products is permitted by applicable city zoning
33 laws; and
34
- 35 (3) The business is owned in common with either a medical marijuana center ~~meeting the~~
36 ~~requirements of subsection (b) of this section~~ or a medical marijuana infused products
37 manufacturer ~~meeting the requirements of subsection (c) of this section~~ meeting the
38 requirements of any and all applicable state and local laws.
39

40 A commercial plant husbandry operation qualifying as a "locally approved" business within the
41 meaning of this subsection (d) shall be potentially eligible for licensing under the Colorado Medical
42 Marijuana Code as an optional premises cultivation operation prior to July 1, 2012 regardless of any
43 change of ownership or change of location of the business after July 1, 2010, so long as the business
44 meets all applicable requirements for licensing as set forth in state and city laws.
45

46 (e) *No entitlement to licensing.* Nothing in this section shall be deemed to create any
47 property interest, vested right, or entitlement to receive a future license to operate a medical
48 marijuana center, a medical marijuana infused products manufacturer, or an optional premises

1 grow operation under the Colorado Medical Marijuana Code. In order to lawfully remain in
2 existence on and after July 1, 2012, any and all commercial medical marijuana businesses shall
3 be required to qualify for state and local licensing under the state code and otherwise comply fully
4 with the requirements of any other applicable state or city laws.
5

6
7 **Section 2.** That section 24-503, D.R.M.C. shall be amended by deleting the language stricken
8 and adding the language underlined, to read as follows:

9
10
11 **Section 24-503. – Effective date; applicability.**
12

13 (a) *Effective date.* On and after July 1, 2011, it shall be unlawful to operate any business in
14 Denver for which a license is required under the CMMC without first having obtained a local license
15 under this article XII and a state license under the state code; provided, however that certain pre-
16 existing medical marijuana businesses that have submitted applications for licensing under the CMMC
17 may continue in operation on and after July 1, 2011 until final action on the business's state and local
18 license applications under the CMMC, subject to the following requirements:
19

20 (1) An applicant for medical marijuana center licensing may continue in operation on
21 and after July 1, 2011 if the applicant or a previous owner of the same business:
22

23 a. Applied for a medical marijuana dispensary license from Denver prior to July 1, 2010
24 in the same location or in any other location in Denver in accordance with Article XI of
25 this Chapter 24, and was not denied the license by the director, ~~and commenced~~
26 ~~operation of the licensed dispensary prior to July 1, 2011;~~ and
27

28 b. Applied for a license for the same business as a medical marijuana center with the
29 state licensing authority by August 1, 2010 under the requirements of section 12-43.3-
30 103 of the Colorado Medical Marijuana Code; and
31

32 c. Has not had the application for a medical marijuana center denied by either the state
33 or local licensing authority.
34

35 (2) An applicant for a medical marijuana infused products manufacturing license or an
36 optional premises cultivation operations license may continue in operation on and after
37 July 1, 2011 if the applicant or a previous owner of the same business:
38

39 a. Met the requirements for a locally approved medical marijuana business as of
40 July 1, 2010 as set forth in section 24-411 in the same location or in any other location
41 in Denver; and
42

43 b. Applied for a license for the same business as a medical marijuana infused
44 products manufacturing or optional premises cultivation with the state licensing authority
45 by August 1, 2010 under the requirements of section 12-43.3-103 of the Colorado
46 Medical Marijuana Code; and
47

1 c. Has not had the application for a medical marijuana infused products
2 manufacturing or optional premises cultivation denied by either the state or local
3 licensing authority.
4

5 (b) *Previous dispensary licenses.* Any medical marijuana dispensary license previously
6 issued by the director under the authority of Article XI of this Chapter 24 shall expire and shall be of no
7 further force and effect as of July 1, 2012 or the date of final action on state and local license
8 applications under the CMMC, whichever occurs first.
9

10 (c) *Receipt of applications for new licensing.* At such time as application forms are made
11 available by the state licensing authority, the director shall begin to receive and process
12 applications for licensing under the CMMC and this article XII.
13

14 (d) *Prohibition on new medical marijuana businesses prior to July 1, 2012.* It shall be
15 unlawful for any person to commence operation of any business of selling, offering for sale,
16 distributing, cultivating or manufacturing medical marijuana prior to July 1, 2012 unless the person had
17 applied for a license or permit from the city on or before July 1, 2010 in accordance with section 24-
18 411, had applied for state licensing on or before August 1, 2010 in accordance with § 12-43.3-103
19 (1)(b), C.R.S., and was otherwise fully in compliance with the requirements of Article XI of this Chapter
20 and the CMMC.
21
22

23 **Section 3.** That paragraphs (1) through (4) of subsection (c) of section 24-508, D.R.M.C.,
24 shall be amended by deleting the language stricken and adding the language underlined, to read
25 as follows:
26

27 **Sec. 24-508. Licensing requirements—Medical marijuana centers.**
28

29 (c) *Prohibited locations.* No medical marijuana center license shall be issued for the following
30 locations:
31

32 (1) In any residential zone district as defined by the zoning code of the city, in any MS-2, MS-
33 2x, MX-2, MX-2A or MX-2x zone district as defined by the zoning code of the city, or in any
34 location where retail sales are prohibited by the zoning code or by any ordinance governing
35 a planned unit development. The restriction against licensing a medical marijuana center in
36 any MS-2, MS-2x, MX-2, MX-2A or MX-2x zone district shall not apply to any location where
37 ~~the same applicant submitted a license application for a medical marijuana dispensary~~
38 ~~under article XI of this chapter 24 on or before July 1, 2010, and subsequently received a~~
39 ~~license under article XI~~ the director previously issued a medical marijuana dispensary
40 license under article XI of this chapter 24, a licensed dispensary commenced operations at
41 the subject location, and a licensed medical marijuana dispensary or center has existed in
42 continuous operations at the subject location since the time of original licensing.
43

44 (2) Within one thousand (1,000) feet of any school or child care establishment, with the
45 distance computed by direct measurement from the nearest property line of the land used
46 for school or child care purposes to the nearest portion of the building in which the medical
47 marijuana dispensary is located, using a route of direct pedestrian access. This restriction
48 shall not apply to any location where ~~the same applicant submitted a license application for~~

1 ~~a medical marijuana dispensary under article XI of this chapter 24 prior to March 1, 2010,~~
2 ~~was exempt from the spacing requirements set forth in article XI, and subsequently~~
3 ~~received a license under article XI of this chapter 24, a licensed dispensary commenced~~
4 ~~operations at the subject location, and a licensed medical marijuana dispensary or center~~
5 ~~has existed in continuous operations at the subject location since the time of original~~
6 ~~licensing.~~
7

8
9
10 (3) Within one thousand (1,000) feet of any other medical marijuana center licensed premises
11 or of any premises licensed under article XI of this chapter 24, with the distance computed
12 by direct measurement from the nearest portion of the building in which one (1) center is
13 located to the nearest portion of the building in which the other center is located, using a
14 route of direct pedestrian access. This restriction shall not apply to any location where ~~the~~
15 ~~same applicant submitted a license application for a medical marijuana dispensary under~~
16 ~~article XI of this chapter 24 prior to March 1, 2010, was exempt from the spacing~~
17 ~~requirement set forth in article XI, and subsequently received a license under article XI.~~ the
18 director previously issued a medical marijuana dispensary license under article XI of this
19 chapter 24, a licensed dispensary commenced operations at the subject location, and a
20 licensed medical marijuana dispensary or center has existed in continuous operations at the
21 subject location since the time of original licensing.
22

23 (4) Within one thousand (1,000) feet of any alcohol or drug treatment facility. The 1,000-foot
24 distance shall be computed by direct measurement from the nearest property line of the
25 land used for alcohol or drug treatment facility purposes to the nearest portion of the
26 property upon which the medical marijuana center license is proposed to be located, using
27 a route of direct pedestrian access. This restriction shall not apply to any location where ~~the~~
28 ~~same applicant submitted a license application for a medical marijuana dispensary under~~
29 ~~article XI of this chapter 24 on or before July 1, 2010, and subsequently received a license~~
30 ~~under article XI~~ the director previously issued a medical marijuana dispensary license
31 under article XI of this chapter 24, a licensed dispensary commenced operations at the
32 subject location, and a licensed medical marijuana dispensary or center has existed in
33 continuous operations at the subject location since the time of original licensing.
34

35 **Section 4.** That section 24-513, D.R.M.C. shall be amended by deleting the language stricken
36 and adding the language underlined, to read as follows:

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39 **Sec. 24-513. - Term of licenses; renewals.**
40

41 (a) Any local license issued pursuant to this article XII shall be valid for a period of two
42 (2) years from the date of issuance. Any renewal of the license shall be governed by the
43 standards and procedures set forth in the CMMC and any regulations adopted pursuant

thereto, subject to any additional restrictions on renewal for certain classes of licenses in certain locations as provided in this article XII.

(b) On or before the one-year anniversary date of any license issued pursuant to this article XII, the licensee shall demonstrate to the satisfaction of the director that the licensee has applied for and received a one-year renewal of the licensee's state license from the state licensing authority and shall pay the annual licensing fee for the second year of the local license as provided in section 32-93 (3). Failure of the licensee to renew and keep current the state license or to make timely payment of the local licensing fee shall be grounds for immediate revocation of any license issued pursuant to this article XII.

COMMITTEE APPROVAL DATE: _____, 2011.

MAYOR-COUNCIL DATE: _____, 2011.

PASSED BY THE COUNCIL _____ 2011

_____ - PRESIDENT

APPROVED: _____ - MAYOR _____ 2011

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

NOTICE PUBLISHED IN THE DAILY JOURNAL _____ 2011; _____ 2011

PREPARED BY: David W. Broadwell, Asst. City Attorney; DATE: October 17, 2011.

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: _____

