

BY AUTHORITY

ORDINANCE NO. _____
SERIES OF 2016

COUNCIL BILL NO. CB15-0912
COMMITTEE OF REFERENCE:
Business Development

A BILL

For an ordinance concerning the licensing and regulation of businesses, including marijuana businesses, and in connection therewith amending Article V of Chapter 6, Article XII of Chapter 24, and Article I of Chapter 32 of the Denver Revised Municipal Code; and for an ordinance repealing Article XI of Chapter 24 of the Denver Revised Municipal Code concerning the licensing and regulation of medical marijuana dispensaries.

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

Section 1. Section 6-201 of the Denver Revised Municipal Code shall be amended by adding the language underlined to read as follows:

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, and rules adopted pursuant thereto, shall apply equally to this article V. In addition, the following terms shall have the meanings respectively assigned to them:

Section 2. Section 6-204 of the Denver Revised Municipal Code shall be amended by adding the language underlined and deleting the language stricken to read as follows:

Sec. 6-204. Local Licensing Authority.

(c) Under no circumstances shall the director receive or act upon any application for local licensing of a retail marijuana establishment in circumstances where the state has failed to act in accordance with section 16 of Article XVIII of the Colorado Constitution, it being the intent of this article that no retail marijuana establishment may lawfully exist in Denver absent the issuance of a state license and full regulatory oversight of the retail marijuana establishment by the state as well as the city. Accordingly, the director shall not receive or act upon any application for licensing submitted independently and in lieu of state licensing nor shall the director receive or act upon any application for licensing if the state fails to act within 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:~~

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

4 ~~(2) If the state fails to act within 90 days on any specific application for licensing of~~
5 ~~a retail marijuana establishment in accordance with paragraph 16(5)(g)(iii) of~~
6 ~~Article XVIII of the Colorado Constitution; or~~

7 ~~(3) If the state has not issued any retail marijuana licenses by January 1, 2014, in~~
8 ~~accordance with paragraph 16(5)(h) of Article XVIII of the Colorado~~
9 ~~Constitution.~~

10 **Section 3.** Section 6-205 of the Denver Revised Municipal Code shall be amended by
11 adding the language underlined to read as follows:

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

13 Except as otherwise specifically provided herein, this article V incorporates the requirements
14 and procedures set forth in the Colorado Retail Marijuana Code. In the event of any conflict
15 between the provisions of this article V or Chapter 32 and the provisions of the Colorado Retail
16 Marijuana Code or any other applicable state or local law or regulation, the more restrictive
17 provision shall control.

18 **Section 4.** Section 6-206 of the Denver Revised Municipal Code shall be amended by
19 adding the language underlined to read as follows:

20 **Sec. 6-206. Unlawful acts.**

21 (a) It shall be unlawful for any person to operate any retail marijuana establishment in
22 the city without a license duly issued therefor by the state licensing authority under
23 the Colorado Retail Marijuana Code and in compliance with any and all applicable
24 state laws and regulations.

25 (b) It shall be unlawful for any person to operate any retail marijuana establishment in
26 the city without a license duly issued therefor by the director under this article V and
27 in compliance with any and all applicable city laws and regulations.

28 **Section 5.** Section 6-209 of the Denver Revised Municipal Code shall be amended by
29 adding the language underlined to read as follows:

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

31 (2) Determine, in consultation with the manager of the department of community
32 planning and development, whether or not the location proposed for licensing
33 complies with any and all zoning and land use laws of the city, and any and all

1 restrictions on location of retail marijuana establishments set forth in this
2 article V. If the director makes an initial determination that the proposed
3 license would be in violation of any zoning law or other restriction on location
4 set forth in city laws, the director shall, no later than forty-five (45) days from
5 the date the application was originally received by the state licensing authority,
6 notify the state licensing authority and the applicant for state licensing in
7 writing that the application is disapproved by the city. The failure of the director
8 to make such a determination upon the initial review of a state license
9 application shall not preclude the director from later determining that the
10 proposed license is in violation of city zoning laws or any other restriction on
11 location set forth in city laws, and disapprove the issuance of a state or city
12 license on this basis.

13 **Section 6.** Section 6-210 of the Denver Revised Municipal Code shall be amended by
14 adding the language underlined to read as follows:

15 **Sec. 6-210. Licensing requirements – Provisions applicable to all licenses.**

- 16 (a) *Criteria for licensing.* The director shall consider and act upon all local license
17 applications in accordance with the standards and procedures set forth in this article
18 V. The director shall deny any application for a license that does not have a
19 corresponding state license or that is not in full compliance with the Colorado Retail
20 Marijuana Code, this article V, and any other applicable state or city law or regulation.
21 The director shall also deny any application that contains any false or incomplete
22 information.
- 23 (b) *Application forms and supplemental materials.* All applications for local licensing shall
24 be made upon forms provided by the director and shall include such supplemental
25 materials as required by this article V, the Colorado Retail Marijuana Code, and rules
26 adopted pursuant thereto, including by way of example: proof of possession of the
27 licensed premises, disclosures related to ownership of the proposed business,
28 fingerprints of the applicants, building plans, floor plans designating the proposed
29 licensed premises outlined in red, and security plans. To the extent any of the
30 foregoing supplemental materials have been included with the applicant's state
31 license application and forwarded to the city by the state licensing authority, the
32 director may rely upon the information forwarded from the state without requiring
33 resubmittal of the same materials in conjunction with the local license application.

1 The director may, at the director's discretion, require additional documentation
2 associated with the application as may be necessary to enforce the requirements of
3 the Colorado Retail Marijuana Code and this article V.

4 (e) *Expiration of applications.* Any application for local licensing submitted pursuant to
5 this article V must be completed within one (1) year of the date the application is filed
6 and the application fee paid. Except as provided in this subsection (e), applications
7 that remain pending after the expiration of the one (1) year time period shall be
8 administratively closed and the director shall deny the issuance of a local license.
9 Once an application expires, the applicant must begin the local licensing process
10 anew. At the director's discretion, the director may extend the application period or
11 approve the issuance of a license for applications that remain pending beyond the
12 one (1) year time period if the applicant can produce, within thirty (30) days after the
13 expiration of the one (1) year time period, documentary or other empirical evidence to
14 establish good cause for the failure to complete the application process. For
15 purposes of this subsection (e), the term "good cause" means the failure to complete
16 the application process occurred due to circumstances outside of the applicant's
17 control.

18 (f) *Corresponding state license.* The director shall not issue a local license unless the
19 applicant produces a corresponding license duly issued by the state licensing
20 authority under the Colorado Retail Marijuana Code.

21 (g) *Pending license applications.* Applications for local licensing may not be transferred,
22 and the director shall deny any application for transfer of ownership or change of
23 location of any pending license application. At the director's discretion, the director
24 may approve an application for transfer of ownership or change of location of a
25 pending application upon a showing of good cause as defined in this section.

26 **Section 7.** Section 6-211 of the Denver Revised Municipal Code shall be amended by
27 adding the language underlined and deleting the language stricken to read as follows:

28 **Sec. 6-211. Licensing requirements – Retail marijuana stores.**

29 (a) *Area maps.* All applications for retail marijuana store licensing submitted pursuant to
30 this article V shall include an area map drawn to scale indicating land uses of other
31 properties within a 1,000-foot radius of the property upon which the applicant is
32 seeking a license. The map shall depict, to the best of applicant's knowledge, the
33 proximity ~~to~~ of the property to any school or child care establishment; to any other

1 retail marijuana store; to any medical marijuana center, to any pending application for
2 either a retail marijuana store or a medical marijuana center, or to any alcohol or drug
3 treatment facility.

4 (b) *Prohibited locations.* No retail marijuana store license shall be issued for the following
5 locations:

6 (3) Within one thousand (1,000) feet of any other retail marijuana store or medical
7 marijuana center licensed under article XII of chapter 24, with the distance
8 computed by direct measurement in a straight line from the nearest portion of
9 the building in which one (1) store or center is located to the nearest portion of
10 the building in which the other store or center is located. This restriction shall
11 not apply to any location proposed for licensing as a retail marijuana store
12 where the director previously issued a medical marijuana center license under
13 article XII of chapter 24 and a licensed medical marijuana center has existed
14 in continuous operations at the subject location since the time of original
15 licensing, nor shall this restriction be construed to prohibit the licensing of a
16 retail marijuana store under common ownership with and at the same location
17 as a licensed medical marijuana center. In the event that the department
18 receives two or more applications for a retail marijuana store license or a
19 medical marijuana center license with proposed locations within 1000' of each
20 other, the director shall act upon only the first complete application received
21 and shall reject all subsequent applications.

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

32 (5) For purposes of this subsection (b), the term "continuous operations" means
33 that the regular sale of medical marijuana has occurred at the subject location

1 without interruption by a medical marijuana center licensed under article XII of
2 chapter 24 in compliance with all state and city laws, and regulations adopted
3 pursuant thereto. Prima facie evidence that a medical marijuana center has
4 not existed in continuous operations shall include:

- 5 a. Any suspension or cessation of the sale of marijuana at the subject
6 location lasting longer than ninety (90) consecutive days; or
- 7 b. Any period during which the subject location is owned, leased or
8 otherwise occupied for a use other than the sale of marijuana; or
- 9 c. Expiration, nonrenewal, surrender, transfer of location, or revocation of
10 the state or local medical marijuana license issued for the subject
11 location.

12 (d) *Signs and advertising.*

- 13 (2) Except as otherwise provided in this subsection (2), it shall be unlawful for any
14 person licensed under this article or any other person to advertise any retail
15 marijuana or retail marijuana product anywhere in the city where the
16 advertisement is visible to members of the public from any street, sidewalk,
17 park or other public place, including advertising utilizing any of the following
18 media: Any billboard or other outdoor general advertising device as defined by
19 the zoning code; any sign mounted on a vehicle, any hand-held or other
20 portable sign; or any handbill, leaflet or flier directly handed to any person in a
21 public place, left upon a motor vehicle, or posted upon any public or private
22 property without the consent of the property owner. The prohibition set forth in
23 this paragraph (2) shall not apply to:

- 24 a. Any fixed sign located on the same zone lot as a retail marijuana store
25 which exists solely for the purpose of identifying the location of the retail
26 marijuana store and which otherwise complies with the Denver Zoning
27 Code and any other applicable city laws and regulations; or
- 28 b. Any advertisement contained within a newspaper, magazine, or other
29 periodical of general circulation within the city; or
- 30 c. Advertising which is purely incidental to sponsorship of a charitable
31 event by a retail marijuana store or a retail marijuana products
32 manufacturer.

- 1 (3) For purposes of this subsection (ed), the terms "advertise," "advertising" or
2 "advertisement" mean the act of drawing the public's attention to a retail
3 marijuana store or retail marijuana products manufacturer in order to promote
4 the sale of retail marijuana or retail marijuana product by the store or the
5 manufacturer.

6 **Section 8.** Section 6-212 of the Denver Revised Municipal Code shall be amended by
7 adding the language underlined and deleting the language stricken to read as follows:

8 **Sec. 6-212. Licensing requirements—Retail marijuana stores—Public hearing**
9 **requirement.**

10 (a) Public notice; posting and publication.

- 11 (1) Upon receipt of an application for a local retail marijuana store license, the
12 director shall schedule a public hearing upon the application not less than 30
13 days from the date of the application and shall post and publish the public
14 notice thereof not less than ten (10) days prior to such hearing. Public notice
15 shall be given by the posting of a sign in a conspicuous place on the premises
16 for which application has been made and by publication in a newspaper of
17 general circulation.

18 (c) *Results of investigation; decision of director.*

- 19 (1) Not less than five (5) days prior to the date of hearing, the director shall make
20 known the director's findings based on the director's initial investigation of the
21 application documents in writing to the applicant and other interested parties.
22 The failure of the director to make these findings known five (5) days prior to
23 the date of the public hearing shall not preclude the director from later
24 determining that the application should be approved or denied.

25 (2) The director has authority to refuse to issue any retail marijuana store license
26 for good cause, subject to judicial review. For purposes of this subsection (c),
27 the term "good cause" means:

- 28 a. The applicant has violated, does not meet, or has failed to comply with
29 any of the terms, conditions, or provisions of the Colorado Retail
30 Marijuana Code or any rule and regulations promulgated pursuant
31 thereto, or this article V or any rules and regulations promulgated
32 pursuant to this article.;
33 b. With respect to a second or additional retail marijuana store license

1 proposed by the same applicant, the director shall consider the effect
2 on competition of the granting or disapproving of additional licenses to
3 such licensee, and no application for a second or additional license that
4 would have the effect of restraining competition shall be approved.

5 c. For applications to license any retail marijuana store in the same
6 location where any medical marijuana center is or has previously been
7 licensed, evidence that the licensed premises have been previously
8 operated in a manner that adversely affects the public health, welfare,
9 or safety of the immediate neighborhood in which the establishment is
10 located.

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

14 (23) Before entering any decision approving or denying the application, the director
15 shall consider, except where this article specifically provides otherwise, the
16 facts and evidence adduced as a result of its investigation and the public
17 hearing required by this section, and any other pertinent matters affecting the
18 qualifications of the applicant for the conduct of business as a retail marijuana
19 store.

20 (34) For new retail marijuana store licenses issued on and after January 1, 2016, in
21 addition to the standards set forth in subsection (c) of this section, the
22 applicant shall establish the need for the license by a preponderance of the
23 evidence and the director shall also consider:

24 a. The reasonable requirements of the neighborhood and the desires of
25 the adult inhabitants as evidenced by petitions, remonstrances, or
26 otherwise;

27 b. The number and availability of other retail marijuana stores in or near
28 the neighborhood under consideration; and

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

32 (45) Unless additional time is necessary to fully investigate an application, any
33 decision of the director approving or denying an application shall be in writing

1 stating the reasons therefor, within thirty (30) days after the date of the public
2 hearing, and a copy of such decision shall be sent by certified mail to the
3 applicant at the address shown in the application and to the state licensing
4 authority. The failure of the director to issue a final decision within thirty (30)
5 days after the date of the public hearing shall not preclude the director from
6 later determining that the application should be approved or denied.

7 **Section 9.** Section 6-214 of the Denver Revised Municipal Code shall be amended by
8 adding the language underlined and deleting the language stricken to read as follows:

9 **Sec. 6-214. Licensing requirements – Retail marijuana cultivation facility.**

10 (a) *Compliance with current zoning.*

11 (2) Notwithstanding the requirement set forth in paragraph (1) of this subsection
12 (a), a retail marijuana cultivation license may be issued in a location where
13 plant husbandry is not a permitted use but is already occurring as a compliant
14 or nonconforming use under the zoning code, if and only if the applicant meets
15 the following requirements:

16 (a) A zoning permit for plant husbandry was applied for upon the same zone lot on or
17 before July 1, 2010;

18 (b) ~~The applicant or any person from whom the applicant acquired a medical marijuana~~
19 ~~business previously applied for~~ can show that an optional premises cultivation license
20 upon the same zone lot was applied for with the state medical marijuana licensing
21 authority on or before August 1, 2010, in accordance with § 12-43.3-103(1)(b), 32
22 C.R.S.; and

23 (c) ~~The applicant or any person from whom the applicant acquired a medical marijuana~~
24 ~~business~~ can produce to the satisfaction of the director documentary or other
25 empirical evidence that ~~the applicant had in fact commenced~~ the cultivation of
26 medical marijuana had commenced on the zone lot prior to January 1, 2011.

27 (3) At the director's discretion, a public hearing may be scheduled for a protested
28 license renewal of aAny retail marijuana cultivation license granted pursuant to
29 subsection (a)(2) of this section upon a zone lot where plant husbandry is not
30 a permitted use under the zoning code ~~shall be subject to a public hearing~~
31 ~~prior to any renewal of the license~~ if requested by a party in interest as defined
32 in section 6-212. Such request for a public hearing must be submitted in the
33 form of a petition prepared by the Department and must contain at least ten

1 (10) valid signatures of parties in interest gathered within 90 days of the
2 renewal date. The director shall assign a hearing officer to conduct the public
3 hearing. The hearing shall not be conducted until the director has posted or
4 caused to be posted a notice of hearing on the licensed premises for a period
5 of ten (10) days, and provided notice to each of the following at least ten (10)
6 days prior to the hearing: the licensee; the city council representative for the
7 district in which the licensed premises is located; and any registered
8 neighborhood association entitled to receive notice as provided in section 12-
9 96. At the public hearing, the incumbent licensee and any other interested
10 party shall be entitled to speak and present evidence supporting or opposing
11 renewal of the license in the location where plant husbandry is not a permitted
12 use. The hearing officer shall receive and give due consideration to any
13 evidence or testimony submitted by the city council member representing the
14 district in which the licensed premises are located, either in support or
15 opposition to the renewal of the license. The retail marijuana cultivation license
16 shall be eligible for renewal, subject to additional considerations as provided in
17 subsection (c) and section 6-218 for all license renewals, in its current
18 compliant or nonconforming location unless it is shown by a preponderance of
19 the evidence presented at the hearing that:

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

e. The applicant or any person from whom the applicant acquired a retail marijuana business failed to meet one or more of the requirements specified in paragraph (2) of this subsection (a).

(c) Permitted number of licenses. Only one (1) local retail marijuana cultivation facility license shall be permitted at each licensed premises. Upon the first renewal of a state license at the retail marijuana cultivation facility, all of the local licenses shall be collapsed into one surviving license, and all additional local licenses shall be surrendered and shall be of no further force and effect. Fees shall be prorated for the non-expiring licenses that are surrendered. The director shall deny any application for transfer of ownership or change of location for the additional local licenses.

Section 10. Section 6-216 of the Denver Revised Municipal Code shall be amended by adding the language underlined and deleting the language stricken to read as follows:

Sec. 6-216. Transfer of ownership.

(a) *In general.* Transfer of ownership of any local license issued pursuant to this article V shall be governed by the standards and procedures set forth in the Colorado Retail Marijuana Code and any regulations adopted pursuant thereto, and the director shall administer transfers of local licenses in the same manner as the state licensing authority administers transfers of state licenses, subject to any additional restrictions on transfer as provided in this article V and any rules and regulations promulgated by the director. The director shall not receive or act upon any application for transfer of ownership while the state or local marijuana license is subject to disciplinary action nor shall the director receive or act upon any application for transfer of ownership if the corresponding state license has been surrendered or revoked.

~~(d) Retail marijuana cultivation licenses. Any retail marijuana cultivation license issued pursuant to subsection 6-214(a)(2) in a location where plant husbandry is not a permitted use under the zoning code shall not be transferable to a new owner in that location unless the applicant for the transfer proves to the satisfaction of the director that:~~

~~(1) The transfer of ownership is required due to extraordinary circumstances forcing the incumbent licensee to divest its interest in the existing retail marijuana cultivation operation including, by way of example, death, divorce,~~

1 bankruptcy, court order, or any force majeure that may prevent the incumbent
2 licensee from continuing to operate in the subject location;
3 ~~(2) The transfer of ownership is required due merely to corporate restructuring or~~
4 ~~any other change in the legal structure of the incumbent owner and licensee;~~
5 ~~or~~
6 ~~(3) In circumstances where the retail marijuana cultivation license is located at the~~
7 ~~same location and under common ownership with an optional premises~~
8 ~~medical marijuana cultivation license, the transfer of ownership is required~~
9 ~~because a medical marijuana center or a medical marijuana-infused products~~
10 ~~manufacturing license with which the optional premises cultivation license is~~
11 ~~associated is being transferred to a new owner.~~

12 (e) Corresponding state license. Upon receipt of any application for transfer of ownership
13 of a local license, the director shall not issue a license to the proposed new owner
14 unless the applicant produces written documentation from the state approving the
15 same transfer of ownership of the corresponding state license recorded upon the
16 face of the local license.

17 **Section 11.** Section 6-217 of the Denver Revised Municipal Code shall be amended by
18 adding the language underlined to read as follows:

19 **Sec. 6-217. Change of location; modification of premises.**

- 20 (a) Change of location of any license or any modification of the licensed premises shall
21 be governed by the standards and procedures set forth in the Colorado Retail
22 Marijuana Code, this article V, and any regulations adopted pursuant thereto, and the
23 director shall administer applications to change location or modify premises in the
24 same manner as the state licensing authority administers changes of location and
25 modification of premises for state licenses. Any proposed modification and any new
26 location to which an existing licensed business is transferred shall fully comply with
27 the spacing requirements and the requirements for conformance with current zoning
28 as set forth this article V.
- 29 (b) Upon receipt of an application for change of location of a retail marijuana store, the
30 director shall schedule a public hearing in accordance with the requirements of
31 section 6-212 and shall issue written findings for the new location.
- 32 (c) Corresponding state license. Upon receipt of any application for change of location,
33 the director shall not issue a license in the proposed new location unless the

1 applicant produces written documentation from the state approving the same change
2 of location of the corresponding state license recorded upon the face of the local
3 license.

4 **Section 12.** Section 6-218 of the Denver Revised Municipal Code shall be amended by
5 adding the language underlined and deleting the language stricken to read as follows:

6 **Sec. 6-218. Term of licenses; renewals.**

7 (a) Any local license issued pursuant to this article V shall be valid for a period of one (1)
8 year from the date of issuance. Any renewal of the license shall be governed by the
9 standards and procedures set forth in the Colorado Retail Marijuana Code and any
10 regulations adopted pursuant thereto, and the director shall administer license
11 renewals in the same manner as the state licensing authority administers renewals of
12 state licenses, subject to ~~the~~ any additional restrictions on renewal as provided in this
13 article V and any regulations adopted pursuant thereto. ~~of retail marijuana cultivations~~
14 ~~facility licenses in certain locations as provided in section 6-214(a)(3).~~

15 (b) If the licensee has received notice of violation of any law or regulation, including
16 disciplinary action against any past or current retail or medical marijuana licenses,
17 the application for renewal shall include a copy of the notice or disciplinary action.

18 (c) Upon receipt of an application for renewal of any local license, the director may set a
19 hearing in accordance with the requirements of section 6-219 if there is reasonable
20 cause to believe that:

21 (1) The licensee, or any of the agents, servants or employees of the licensee,
22 have violated any ordinance of the city or any state law on the premises or
23 have permitted such a violation on the premises by any other person; or

24 (2) There are grounds for suspension, revocation or other licensing sanctions as
25 provided in this article.

26 (d) Except where the director has received a complete renewal application along with the
27 requisite fees, it shall be unlawful for any person to manufacture, sell, distribute,
28 transfer, transport, or otherwise remove marijuana or marijuana products from the
29 premises of a licensed retail marijuana establishment after the expiration date
30 recorded upon the face of any local license issued pursuant to this article V for that
31 location.

32 **Section 13.** Section 6-219 of the Denver Revised Municipal Code shall be amended by
33 adding the language underlined to read as follows:

1 **Sec. 6-219. Disciplinary sanctions; penalties.**

2 (c) *Inactive licenses.* The director may suspend or revoke any license if the licensed
3 premises have been inactive or unoccupied by the licensee for at least one (1) year.

4 (d) *Summary suspension.* When the director has reasonable grounds to believe that a
5 licensee has engaged in deliberate and willful violation of any applicable law or
6 regulation, or that the public health, safety, or welfare requires emergency action, the
7 director may enter a summary suspension order for the immediate suspension of
8 such license, pending further investigation.

9 (1) The summary suspension order shall be in writing and shall state the reasons
10 therefor. The director shall schedule a hearing within 30 days of the date of
11 the order.

12 (2) Proceedings for summary suspension hearings shall be as provided in chapter
13 32, and any rules and regulations promulgated by the director. This section
14 shall be in addition to any other penalties specified in this article V or chapter
15 32.

16 (e) *State license.* The director may suspend or revoke any license if the corresponding
17 state license for the subject location is expired, surrendered, suspended, or revoked.

18 **Section 14.** Section 6-220 of the Denver Revised Municipal Code shall be amended by
19 adding the language underlined to read as follows:

20 **Sec. 6-220. Rules and Regulations.**

21 (a) The director may make such reasonable rules and regulations as may be necessary
22 for the purpose of administering and enforcing the provisions of this article and any
23 other ordinances or laws relating to and affecting the licensing and operation of retail
24 marijuana establishments.

25 (b) It shall be unlawful for any person to violate a rule or regulation adopted by the
26 director pursuant to this section.

27 **Section 15.** Section 24-502 of the Denver Revised Municipal Code shall be amended by
28 adding the language underlined to read as follows:

29 **Sec. 24-502. Defined terms.**

30 The definitions set forth in the Colorado Medical Marijuana CodeMMC, § 12-43.3-104,
31 C.R.S., as amended, and rules adopted pursuant thereto, shall apply equally to this article XII. In
32 addition, the following terms shall have the meanings respectively assigned to them:

(5) School means a public or private preschool or a public or private elementary, middle, junior high, or high school.

Section 16. Section 24-503 of the Denver Revised Municipal Code shall be amended by adding the language underlined and deleting the language stricken to read as follows:

Sec. 24-503. Effective date; applicability.

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

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

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

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

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

~~(2) [Other licenses.] An applicant for a medical marijuana infused products manufacturing license or an optional premises cultivation operations license may continue in operation on and after July 1, 2011, if the applicant or a previous owner of the same business:~~

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

- ~~b. Applied for a license for the same business as a medical marijuana infused products manufacturing or optional premises cultivation with the state licensing authority by August 1, 2010 under the requirements of section 12-43.3-103 of the Colorado Medical Marijuana Code; and~~
- ~~c. Has not had the application for medical marijuana infused products manufacturing or optional premises cultivation denied by either the state or local licensing authority.~~
- ~~(3) Notwithstanding the provisions of paragraphs (1) and (2) of this subsection (a), if the owner of any pre-existing medical marijuana business has not obtained both a state and city license to lawfully continue in operation by July 1, 2014, the business shall cease operation immediately as of that date. On and after July 1, 2014 it shall be unlawful for any person to operate any business involving the cultivation, manufacture or sale of medical marijuana or medical marijuana-infused products without holding a current state and city license. If the owner of any pre-existing medical marijuana business has not applied for a city license to lawfully continue in operation prior to October 1, 2013, the business shall cease operation immediately as of that date. On and after October 1, 2013, it shall be unlawful for any person to continue to operate any business involving the cultivation, manufacture or sale of medical marijuana or medical marijuana-infused products without having applied for local license under this Article XII and the CMMC.~~
- ~~(b) Previous dispensary licenses. Any medical marijuana dispensary license previously issued by the director under the authority of article XI of this chapter shall expire and shall be of no further force and effect as of July 1, 2012, or the date of final action on state and local license applications under the CMMC, whichever occurs first.~~
- ~~(c) Receipt of applications for new licensing. At such time as application forms are made available by the state licensing authority, the director shall begin to receive and process applications for licensing under the CMMC and this article XII.~~
- ~~(d) Prohibition on new medical marijuana businesses prior to July 1, 2012. It shall be unlawful for any person to commence operation of any business of selling, offering for sale, distributing, cultivating or manufacturing medical marijuana prior to July 1, 2012, unless the person had applied for a license or permit from the city on or before July 1, 2010, in accordance with section 24-411, had applied for state licensing on or~~

1 before August 1, 2010, in accordance with ~~§ 12-43.3-103(1)(b), C.R.S., and was~~
2 otherwise fully in compliance with the requirements of article XI of this chapter and
3 the CMMC.

4 **Section 17.** Section 24-504 of the Denver Revised Municipal Code shall be amended by
5 adding the language underlined and deleting the language stricken to read as follows:

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

7 Except as otherwise specifically provided herein, this article XII incorporates the
8 requirements and procedures set forth in the Colorado Medical Marijuana Code~~CMMC~~. In the event
9 of any conflict between the provisions of this article XII or Chapter 32 and the provisions of the
10 Colorado Medical Marijuana Code~~CMMC~~ or any other applicable state or local law, or regulation, the
11 more restrictive provision shall control.

12 **Section 18.** Section 24-506 of the Denver Revised Municipal Code shall be amended by
13 adding the language underlined and deleting the language stricken to read as follows:

14 **Sec. 24-506. Classes of licensing authorized.**

15 For the purpose of regulating the cultivation, manufacture, distribution, offering for sale, and
16 sale of medical marijuana, the director in the director's discretion, upon application in the
17 prescribed form made to the director, may issue and grant to the applicant a local license from any
18 of the following classes, subject to the provisions and restrictions provided in this article XII and the
19 Colorado Medical Marijuana Code~~CMMC~~:

- 20 (a) Medical marijuana center license;
- 21 (b) Optional premises cultivation license;
- 22 (c) Medical marijuana-infused products manufacturing license-;
- 23 (d) Medical marijuana testing facility license

24 **Section 19.** Section 24-507 of the Denver Revised Municipal Code shall be amended by
25 adding the language underlined and deleting the language stricken to read as follows:

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

- 27 (a) ~~Criteria for licensing; waiver of public hearings.~~ The director shall consider and act
28 upon all local license applications in accordance with the standards and procedures
29 set forth in the Colorado Medical Marijuana Code~~CMMC~~ and this article XII, and rules
30 adopted pursuant thereto; ~~provided, however, no public hearing shall be required for~~
31 ~~any class of licensing pursuant to § 12-43.3-302, C.R.S., as amended, and the~~
32 ~~director's decision to grant or deny a license shall be made solely upon the results of~~
33 ~~the director's investigation and findings pursuant to section 12-43.3-305, C.R.S., as~~

1 amended. The director shall deny any application for a license that does not have a
2 corresponding state license or that is not in full compliance with the Colorado Medical
3 Marijuana CodeMMG, this article XII, and any other applicable state or city law or
4 regulation. The director shall also deny any application that contains any false or
5 incomplete information.

6 (b) *Application forms and supplemental materials.* All applications for local licensing shall
7 be made upon forms provided by the state, and shall include such supplemental
8 materials as required by this article XII, the Colorado Medical Marijuana CodeMMG,
9 and rules adopted pursuant thereto, including by way of example: proof of
10 possession of the licensed premises, disclosures related to ownership of the
11 proposed business, fingerprints of the applicants, building plans, floor plans
12 designating the proposed licensed premises outlined in red, and security plans. The
13 director may, at the director's discretion, require additional documentation associated
14 with the application as may be necessary to enforce the requirements of the
15 Colorado Medical Marijuana CodeMMG and this article XII, and rules adopted
16 pursuant thereto.

17 (e) *Expiration of applications.* Any application for local licensing submitted pursuant to
18 this article XII must be completed within one (1) year of the date the application is
19 filed and the application fee paid. Except as provided in this paragraph (e),
20 applications that remain pending after the expiration of the one (1) year time period
21 shall be administratively closed and the director shall deny the issuance of a local
22 license. Once an application expires, the applicant must begin the local licensing
23 process anew. At the director's discretion, the director may extend the application
24 period or approve the issuance of a license for applications that remain pending
25 beyond the one (1) year time period if the applicant can produce, within thirty (30)
26 days after the expiration of the one (1) year time period, documentary or other
27 empirical evidence to establish good cause for the failure to complete the application
28 process. For purposes of this subsection (e), the term "good cause" means the
29 failure to complete the application process occurred due to circumstances outside of
30 the applicant's control.

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

1 (g) Pending license applications. Applications for local licensing may not be transferred,
2 and the director shall deny any application for transfer of ownership or change of
3 location of any pending license application. At the director's discretion, the director
4 may approve an application for transfer of ownership or change of location of a
5 pending application upon a showing of good cause as defined in this section.

6 **Section 20.** Section 24-508 of the Denver Revised Municipal Code shall be amended by
7 adding the language underlined and deleting the language stricken to read as follows:

8 **Sec. 24-508. Licensing requirements – Medical marijuana centers.**

- 9 (a) *Area maps.* All applications for medical marijuana center licensing submitted
10 pursuant to this article XII shall include an area map drawn to scale indicating land
11 uses of other properties within a 1,000-foot radius of the property upon which the
12 applicant is seeking a license. The map shall depict, to the best of applicant's
13 knowledge, the proximity ~~to~~ of the property to any school or child care
14 establishment; to any other medical marijuana center; to any alcohol or drug
15 treatment facility; or to any residential or U-MS-2x zone district.
- 16 (b) Prohibited locations. No medical marijuana center license shall be issued for the
17 following locations:
- 18 (1) In any residential zone district as defined by the zoning code of the city, in any
19 MS-2, MS-2x, MX-2, MX-2A or MX-2x zone district as defined by the zoning
20 code of the city, or in any location where retail sales are prohibited by the
21 zoning code or by any ordinance governing a planned unit development. The
22 restriction against licensing a medical marijuana center in any MS-2, MS-2x,
23 MX-2, MX-2A or MX-2x zone district shall not apply to any location where the
24 director previously issued a medical marijuana dispensary license under article
25 XI of this chapter 24, a licensed dispensary commenced operations at the
26 subject location, and a licensed medical marijuana dispensary or center has
27 existed in continuous operations at the subject location since the time of
28 original licensing.
- 29 (2) Within one thousand (1,000) feet of any school ~~or child care establishment,~~
30 with the distance computed by direct measurement in a straight line from the
31 nearest property line of the land used for ~~the school or child care purposes to~~
32 the nearest portion of the building in which the medical marijuana center
33 dispensary is located, ~~using a route of direct pedestrian access.~~ This

1 restriction shall not apply to any location where the director previously issued a
2 medical marijuana dispensary license under article XI of this chapter 24, a
3 licensed dispensary commenced operations at the subject location, and a
4 licensed medical marijuana dispensary or center has existed in continuous
5 operations at the subject location since the time of original licensing.

6 (3) Within one thousand (1,000) feet of any other medical marijuana center
7 licensed premises or of any premises licensed under article XII of this chapter
8 24, or any retail marijuana store licensed under article V of chapter 6, with the
9 distance computed by direct measurement in a straight line from the nearest
10 portion of the building in which the center is proposed to be located to the
11 nearest portion of the building in which the other center or the retail marijuana
12 store is located. This restriction shall not apply to any location where the
13 director previously issued a medical marijuana dispensary license under article
14 XI of this chapter 24, a licensed dispensary commenced operations at the
15 subject location, and a licensed medical marijuana dispensary or center has
16 existed in continuous operations at the subject location since the time of
17 original licensing. Upon receipt of two or more applications for a retail
18 marijuana store license or a medical marijuana center license with proposed
19 locations within 1000' of each other, the director shall act upon only the first
20 complete application received and shall reject all subsequent applications.

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

32 (5) The spacing requirements set forth in paragraphs (2), (3) and (4) of this
33 subsection (c) shall be enforced in lieu of the spacing requirements set forth in

1 the Colorado Medical Marijuana CodeMMG, § 12-43.3-308 (1)(d)(I), C.R.S. as
2 amended.

3 (6) The spacing restrictions set forth in paragraphs (2) and (4) of this subsection
4 (c) shall not apply to any location where the director previously issued a
5 medical marijuana center license under this article XII.

6 (7) For purposes of this subsection (b), the term “continuous operations” means
7 that the regular sale of medical marijuana has occurred at the subject location
8 without interruption by a medical marijuana center licensed under article XII of
9 chapter 24 in compliance with all state and city laws, and any regulations
10 adopted pursuant thereto. Prima facie evidence that a medical marijuana
11 center has not existed in continuous operations shall include:

- 12 a. Any suspension or cessation of the sale of medical marijuana at the
13 subject location lasting longer than ninety (90) consecutive days; or
14 b. Any period during which the subject location is owned, leased or
15 otherwise occupied for a use other than the sale of marijuana; or
16 c. Expiration, nonrenewal, surrender, transfer of location, or revocation of
17 the state or local medical marijuana license issued for the subject
18 location.

19 (d) Signs and advertising.

20 (3) Except as otherwise provided in this subsection (3), it shall be unlawful for any
21 person licensed under this article or any other person to advertise any medical
22 marijuana or medical marijuana-infused product anywhere in the city where
23 the advertisement is visible to members of the public from any street,
24 sidewalk, park or other public place, including advertising utilizing any of the
25 following media: any billboard or other outdoor general advertising device as
26 defined by the zoning code; any sign mounted on a vehicle, any hand-held or
27 other portable sign; or any handbill, leaflet or flier directly handed to any
28 person in a public place, left upon a motor vehicle, or posted upon any public
29 or private property without the consent of the property owner. The prohibition
30 set forth in this paragraph (3) shall not apply to:

- 31 (i) Any fixed sign located on the same zone lot as a medical marijuana
32 center which exists solely for the purpose of identifying the location of
33 the medical marijuana center and which otherwise complies with the

1 Denver Zoning Code and any other applicable city laws and
2 regulations; or

- 3 (4) For purposes of this subsection (ed), the terms "advertise," "advertising" or
4 "advertisement" means the act of drawing the public's attention to a medical
5 marijuana center or medical marijuana infused products manufacturer in order
6 to promote the sale of medical marijuana or medical marijuana-infused product
7 by the center or the manufacturer.

- 8 (e) Hours of operation. It shall be unlawful for any person to sell medical marijuana or
9 medical marijuana products at a licensed medical marijuana center at any time other
10 than between the hours of 8:00 a.m. and 7:00 p.m. daily.

11 **Section 21.** Chapter 24 of the Denver Revised Municipal Code shall be amended by
12 adding a new section 24-508.5 to read as follows:

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

- 15 (a) Public notice; posting and publication.

- 16 (1) For new medical marijuana center licenses issued on and after January 1,
17 2016, the director shall schedule a public hearing upon the application not less
18 than 30 days from the date of the application and shall post and publish the
19 public notice thereof not less than ten (10) days prior to such hearing. Public
20 notice shall be given by the posting of a sign in a conspicuous place on the
21 premises for which application has been made and by publication in a
22 newspaper of general circulation.

- 23 (2) Notice given by posting shall include a sign of suitable material, not less than
24 twenty-two (22) inches wide and twenty-six (26) inches high, composed of
25 letters not less than one (1) inch in height and stating the type of license
26 applied for, the date of the application, the date of the hearing, and the name
27 and address of the applicant, and such other information as may be required
28 to fully apprise the public of the nature of the application. If the applicant is a
29 partnership, the sign shall contain the names and addresses of all partners,
30 and if the applicant is a corporation, association, or other organization, the
31 sign shall contain the names and addresses of the president, vice-president,
32 secretary, and manager or other managing officers.

1 (3) Notice given by publication shall contain the same information as that required
2 for signs.

3 (4) If the building in which medical marijuana is to be sold is in existence at the
4 time of the application, any sign posted as required in subsections (1) and (2)
5 of this section shall be placed so as to be conspicuous and plainly visible to
6 the general public. If the building is not constructed at the time of the
7 application, the applicant shall post the premises upon which the building is to
8 be constructed in such a manner that the notice shall be conspicuous and
9 plainly visible to the general public.

10 (b) Conduct of public hearings.

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

14 a. The applicant;

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

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

18 d. An authorized representative of a registered neighborhood organization
19 that encompasses all or part of the neighborhood under consideration;
20 or

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

23 (2) As used in this section, the term "neighborhood" shall have the same meaning
24 as the director utilizes for purposes of issuance of liquor licenses.

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

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

30 (c) Results of investigation; decision of director.

31 (1) Not less than five (5) days prior to the date of hearing, the director shall make
32 known the director's findings based on the director's initial investigation of the
33 application documents in writing to the applicant and other interested parties.

1 The failure of the director to make these findings known five (5) days prior to
2 the date of the public hearing shall not preclude the director from later
3 determining that the application should be approved or denied.

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

8 a. The applicant has violated, does not meet, or has failed to comply with
9 any of the terms, conditions, or provisions of the Colorado Medical
10 Marijuana Code or any rule and regulations promulgated pursuant
11 thereto, or this article XII or any rules and regulations promulgated
12 pursuant to this article.;

13 b. With respect to a second or additional medical marijuana center license
14 proposed by the same applicant, the director shall consider the effect
15 on competition of the granting or disapproving of additional licenses to
16 such licensee, and no application for a second or additional license that
17 would have the effect of restraining competition shall be approved.

18 c. For applications to license any medical marijuana center in the same
19 location where any medical marijuana center has previously been
20 licensed, evidence that the licensed premises have been previously
21 operated in a manner that adversely affects the public health, welfare,
22 or safety of the immediate neighborhood in which the establishment is
23 located.

24 d. Evidence that the issuance of the license will adversely impact the
25 health, welfare or public safety of the neighborhood in which the
26 medical marijuana center is proposed to be located

27 (3) In addition to the standards set forth in paragraph (2) of subsection (c) of this
28 section, the applicant shall establish the need for the license by a
29 preponderance of the evidence and the director shall also consider:

30 a. The reasonable requirements of the neighborhood and the desires of
31 the adult inhabitants as evidenced by petitions, remonstrances, or
32 otherwise;

33 b. The number and availability of other medical marijuana centers in or

1 near the neighborhood under consideration; and

2 c. Whether the issuance of such license would result in or add to an
3 undue concentration of medical marijuana center licenses and, as a
4 result, require the use of additional law enforcement resources

5 (4) Before entering any decision approving or denying the application, the director
6 shall consider, except where this article specifically provides otherwise, the
7 facts and evidence adduced as a result of its investigation and the public
8 hearing required by this section, and any other pertinent matters affecting the
9 qualifications of the applicant for the conduct of business as a retail marijuana
10 store.

11 (5) Unless additional time is necessary to fully investigate an application, any
12 decision of the director approving or denying an application shall be in writing
13 stating the reasons therefor, within thirty (30) days after the date of the public
14 hearing, and a copy of such decision shall be sent by certified mail to the
15 applicant at the address shown in the application and to the state licensing
16 authority. The failure of the director to issue a final decision within thirty (30)
17 days after the date of the public hearing shall not preclude the director from
18 later determining that the application should be approved or denied.

19 **Section 22.** Section 24-510 of the Denver Revised Municipal Code shall be amended by
20 adding the language underlined and deleting the language stricken to read as follows:

21 **Sec. 24-510. Licensing requirements – Optional premises cultivation licenses.**

22 (a) *Compliance with current zoning.*

23 (2) Notwithstanding the requirement set forth in paragraph (1) of this subsection
24 (a), a retail marijuana cultivation license may be issued in a location where
25 plant husbandry is not a permitted use but is already occurring as a compliant
26 or nonconforming use under the zoning code, if and only if the applicant meets
27 the following requirements:

28 (a) A zoning permit for plant husbandry was applied for upon the same zone lot on or
29 before July 1, 2010;

30 (b) ~~The applicant or any person from whom the applicant acquired a medical marijuana~~
31 ~~business previously applied for~~ can show that an optional premises cultivation license
32 upon the same zone lot was applied for with the state medical marijuana licensing

1 authority on or before August 1, 2010, in accordance with § 12-43.3-103(1)(b), 32
2 C.R.S.; and

- 3 (c) ~~The applicant or any person from whom the applicant acquired a medical marijuana~~
4 ~~business~~ can produce to the satisfaction of the director documentary or other
5 empirical evidence that ~~the applicant had in fact commenced~~ the cultivation of
6 medical marijuana had commenced on the zone lot prior to January 1, 2011.

- 7 (3) At the director's discretion, a public hearing may be scheduled for a protested
8 license renewal of aAny optional premises cultivation licenses granted
9 pursuant to subsection (a)(2) of this section upon a zone lot where plant
10 husbandry is not a permitted use under the zoning code ~~shall be subject to a~~
11 ~~public hearing prior to any renewal of the license if requested by a party in~~
12 interest as defined in section 24-508.5(b)(1). Such request for a public
13 hearing must be submitted in the form of a petition prepared by the
14 Department and must contain at least ten (10) valid signatures of parties in
15 interest gathered within 90 days of the renewal date. The director shall assign
16 a hearing officer to conduct the public hearing as provided in section 24-505.
17 The hearing shall not be conducted until the director has posted or caused to
18 be posted a notice of hearing on the licensed premises in the manner
19 described in § 12-43.3-302 (2), C.R.S. for a period of ten (10) days, and
20 provided notice to each of the following at least ten (10) days prior to the
21 hearing: the licensee; the city council representative for the district in which the
22 licensed premises is located; and any registered neighborhood association
23 entitled to receive notice as provided in section 12-96. At the public hearing,
24 the incumbent licensee and any other interested party shall be entitled to
25 speak and present evidence supporting or opposing renewal of the license in
26 the location where plant husbandry is not a permitted use. The hearing officer
27 shall receive and give due consideration to any evidence or testimony
28 submitted by the city council member representing the district in which the
29 licensed premises are located, either in support or opposition to the renewal of
30 the license. The optional premises cultivation license shall be eligible for
31 renewal, subject to additional considerations as provided in section 24-513 for
32 all license renewals, in its current compliant or nonconforming location unless
33 it is shown by a preponderance of the evidence presented at the hearing that:

- 1 a. The existence of the medical marijuana cultivation on the licensed
2 premises has frustrated the implementation of the city's comprehensive
3 plan and any adopted neighborhood plan applicable to the subject
4 property;
- 5 b. The existence of the medical marijuana cultivation operation on the
6 licensed premises has negatively affected nearby properties or the
7 neighborhood in general, including by way of example any adverse
8 effects caused by excessive noise, odors, vehicular traffic, or any
9 negative effects on nearby property values;
- 10 c. The existence of the medical marijuana cultivation operation has
11 caused crime rates to increase in the surrounding neighborhood;~~or~~
- 12 d. The continued existence of a licensed medical marijuana cultivation
13 operation in the subject location will have a deleterious impact on public
14 health, safety and the general welfare of the neighborhood or the city;
15 or
- 16 e. The applicant or any person from whom the applicant acquired a
17 medical marijuana business failed to meet one or more of the
18 requirements specified in paragraph (2) of this subsection (a).

19 **Section 23.** Chapter 24 of the Denver Revised Municipal Code shall be amended by adding a
20 new section 24-510.5 to read as follows:

21 **Sec. 24-510.5. Licensing requirements – Medical Marijuana Testing Facilities.**

22 In addition to the requirements set forth in the Colorado Medical Marijuana Code and any rules
23 or regulations adopted pursuant thereto, the following requirement shall apply to the issuance of
24 any local license for a medical marijuana testing facility: a local medical marijuana testing facility
25 license may be issued in any zone district where, at the time of application for the license, the land
26 use denominated “laboratory, research, development, and technological services” is allowed by the
27 zoning code.

28 **Section 24.** Section 24-511 of the Denver Revised Municipal Code shall be amended by
29 adding the language underlined and deleting the language stricken to read as follows:

30 **Sec. 24-511. Transfer of ownership.**

- 31 (a) *In general.* Transfer of ownership of any license issued pursuant to this article XII
32 shall be governed by the standards and procedures set forth in the Colorado Medical
33 Marijuana Code ~~MMC~~ and any regulations adopted pursuant thereto, and any

1 additional restrictions on transfer of ownership as provided in this article XII and any
2 rules and regulations promulgated by the director.

3 ~~(d) Cultivation licenses. Any optional premises cultivation license issued pursuant to~~
4 ~~subsection 24-510(a)(2) in a location where plant husbandry is not a permitted use~~
5 ~~under the zoning code shall not be transferable to a new owner in that location~~
6 ~~unless the applicant for the transfer proves to the satisfaction of the director that:~~

7 ~~(1) The transfer of ownership is required due to extraordinary circumstances~~
8 ~~forcing the incumbent licensee to divest its interest in the existing optional~~
9 ~~premises cultivation operation including, by way of example, death, divorce,~~
10 ~~bankruptcy, court order, or any force majeure that may prevent the incumbent~~
11 ~~licensee from continuing to operate in the subject location;~~

12 ~~(2) The transfer of ownership is required due merely to corporate restructuring or~~
13 ~~any other change in the legal structure of the incumbent owner and licensee;~~
14 ~~or~~

15 ~~(3) The transfer of ownership is required because the medical marijuana center or~~
16 ~~the medical marijuana infused products manufacturing license with which the~~
17 ~~optional premises cultivation license is associated is being transferred to a~~
18 ~~new owner.~~

19 (e) Disciplinary action. The director shall not receive or act upon any application for
20 transfer of ownership while the state or local marijuana license is subject to
21 disciplinary action nor shall the director receive or act upon any application for
22 transfer of ownership if the corresponding state license has been surrendered or
23 revoked.

24 (f) Corresponding state license. Upon receipt of any application for transfer of
25 ownership of a local license, the director shall not issue a license to the proposed
26 new owner unless the applicant produces written documentation from the state
27 approving the same transfer of ownership of the corresponding state license
28 recorded upon the face of the local license.

29 **Section 25.** Section 24-512 of the Denver Revised Municipal Code shall be amended by
30 adding the language underlined and deleting the language stricken to read as follows:

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

32 (a) Change of location of any ~~location~~ license premises or any modification of the
33 licensed premises shall be governed by the standards and procedures set forth in the

1 Colorado Medical Marijuana Code~~MMC~~, this article XII, and any regulations adopted
2 pursuant thereto. Any proposed modification and any new location to which an
3 existing licensed business is transferred shall fully comply with the spacing
4 requirements and the requirements for conformance with current zoning as set forth
5 in sections 24-508, 24-509, or 24-510 of this article XII.

6 (b) Upon receipt of an application for change of location of a medical marijuana center,
7 the director shall schedule a public hearing in accordance with the requirements of
8 section 24-508.5 and shall issue written findings for the new location.

9 (c) *Corresponding state license.* Upon receipt of any application for change of location
10 of a local license, the director not issue a license to the proposed new location unless
11 the applicant produces written documentation from the state approving the same
12 change of location of the corresponding state license recorded upon the face of the
13 local license.

14 **Section 26.** Section 24-513 of the Denver Revised Municipal Code shall be amended by
15 adding the language underlined and deleting the language stricken to read as follows:

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

17 (a) Effective March 1, 2014, any local license issued pursuant to this article XII shall be
18 valid for a period of one (1) year from the date of issuance. Any renewal of the
19 license shall be governed by the standards and procedures set forth in the ~~CMMC~~
20 Colorado Medical Marijuana Code and any regulations adopted pursuant thereto,
21 subject to any additional restrictions on renewal ~~for certain classes of licenses in~~
22 ~~certain locations as provided in this article XII, and any regulations adopted pursuant~~
23 thereto.

24 (d) If the licensee has received notice of violation of any law or regulation, including
25 disciplinary action against any past or current retail or medical marijuana licenses,
26 the renewal application shall include a copy of the notice or disciplinary action. The
27 renewal application shall also include verification that the corresponding state license
28 is valid and in good standing at the time of renewal.

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

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

(2) There are grounds for suspension, revocation or other licensing sanctions as provided in this article; or

(3) There have been any significant changes in the licensee, the principals, the licensed premises, or the adjacent grounds.

(f) Except where the director has received a complete renewal application along with the requisite fees, it shall be unlawful for any person to manufacture, sell, distribute, transfer, transport, or otherwise remove medical marijuana or medical marijuana products from the premises of a licensed medical marijuana establishment after the expiration date listed upon the face of any local license issued pursuant to this article XII for that location.

(g) A licensee who files a complete renewal application and pays the requisite fees may continue to operate until the director takes final action to approve or deny the application.

Section 27. Section 24-514 of the Denver Revised Municipal Code shall be amended by adding the language underlined and deleting the language stricken to read as follows:

Sec. 24-514. Disciplinary actions; sanctions; penalties.

~~Procedures for suspension or revocation of licenses issued pursuant to this article XII and other fines, sanctions and penalties shall be as provided in the CMMC and any regulations adopted pursuant thereto.~~

(a) Procedures. Procedures for investigation of license violations and for suspension, revocation or other licensing sanctions as a result of any such violation shall be as provided in chapter 32 of the Code and any rules and regulations promulgated by the director.

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

(c) Inactive licenses. The director may suspend or revoke any license if the licensed premises have been inactive or unoccupied by the licensee for at least one (1) year.

(d) Summary suspension. If the director finds that probable cause exists that a licensee has engaged in deliberate and willful violation of any applicable law or regulation, or

1 that the public health, safety, or welfare requires emergency action, the director may
2 enter a summary suspension order for the immediate suspension of such license,
3 pending further investigation.

4 (1) The summary suspension order shall be in writing and shall state the reasons
5 therefor. The director shall schedule a hearing within 30 days of the date of
6 the order.

7 (2) Proceedings for summary suspension hearings shall be as provided in section
8 32, and any rules and regulations promulgated by the director. This section
9 shall be in addition to any other penalties specified in this article XII or chapter
10 32.

11 (e) *State License.* The director may suspend or revoke any license if the corresponding
12 state license for the subject location is expired, surrendered, suspended, or revoked.

13 **Section 28.** Section 24-515 of the Denver Revised Municipal Code shall be amended by
14 adding the language underlined to read as follows:

15 **Sec. 24-515. Rules and Regulations.**

16 (a) The director may make such reasonable rules and regulations as may be necessary
17 for the purpose of administering and enforcing the provisions of this article and any
18 other ordinances or laws relating to and affecting the licensing and operation of
19 medical marijuana establishments.

20 (b) It shall be unlawful for any person to violate a rule or regulation adopted by the
21 director pursuant to this section.

22 **Section 29.** Section 32-2 of the Denver Revised Municipal Code shall be amended by
23 adding the language underlined to read as follows:

24 **Sec. 32-2. Application.**

25 (c) Any application for local licensing submitted pursuant to this chapter 32 shall be
26 completed within one (1) year of the date the application is filed and the application
27 fee paid. Except as provided in this subsection (c), applications that remain pending
28 after the expiration of the one (1) year time period and the director shall deny the
29 issuance of a license. Once an application expires, the applicant must begin the
30 licensing process anew. At the director's discretion, the director may extend the
31 application period or approve the issuance of a license for applications that remain
32 pending beyond the one (1) year time period if the applicant can produce, within thirty
33 (30) days after the expiration of the one (1) year time period, documentary or other

1 empirical evidence to establish good cause for the failure to complete the application
2 process. For purposes of this subsection (c), the term "good cause" means the
3 failure to complete the application process occurred due to circumstances outside of
4 the applicant's control.

5 **Section 30.** Section 32-11 of the Denver Revised Municipal Code shall be amended by
6 adding the language underlined and deleting the language stricken to read as follows:

7 **Sec. 32-11. Issuance or denial.**

8 No license authorized under this Code shall issue unless:

9 (7) No fraudulent, misrepresented, or false statement of material or relevant fact is
10 contained within the application-; and

11 (8) The application is completed within one (1) year of the date that the
12 application is filed as provided in subsection 32-2(c).

13 **Section 31.** Chapter 32 of the Denver Revised Municipal Code shall be amended by
14 adding a new section 32-31 to read as follows:

15 **Sec. 32-31. Rules and regulations.**

16 (a) The director may make such reasonable rules and regulations as may be necessary
17 for the purpose of administering and enforcing the provisions of this article and any
18 other ordinances or laws relating to and affecting the licensing of businesses and
19 individuals that operate in the city.

20 (b) It shall be unlawful for any person to violate a rule or regulation adopted by the
21 director pursuant to this section.

22 **Section 32.** Article XI of Chapter 24, D.R.M.C., shall be repealed by deleting the language
23 stricken, as follows:

24 **~~Sec. 24-401. Purpose and legislative intent.~~**

25 ~~Although the possession and use of marijuana is and remains unlawful under Federal law,~~
26 ~~Section 14 of Article XVIII of the Colorado Constitution ("Amendment 20") provides an exception to~~
27 ~~prosecution under state criminal laws when marijuana is possessed and used for medicinal~~
28 ~~purposes by a patient who has been diagnosed with a debilitating medical condition and by the~~
29 ~~patient's primary caregiver. Amendment 20 does not, however, contain any provision for the lawful~~
30 ~~sale or distribution of marijuana to patients and, to date, the State of Colorado has failed to adopt~~
31 ~~laws or regulations to clearly explain how and whether marijuana may be lawfully sold or otherwise~~
32 ~~distributed to patients. As a result of this ambiguity in the state law, unregulated medical marijuana~~
33 ~~dispensaries have proliferated in Denver and elsewhere in Colorado. The purpose of this article is~~

1 to license and regulate medical marijuana dispensaries in the interest of public health, safety and
2 general welfare. In particular, this article is intended to regulate the sale and distribution of
3 marijuana in the interest of patients who qualify to obtain, possess and use marijuana for medical
4 purposes under Amendment 20, while promoting compliance with other state laws that prohibit
5 trafficking in marijuana for nonmedical purposes. Nothing in this article is intended to promote or
6 condone the sale, distribution, possession or use of marijuana in violation of any applicable law.
7 Compliance with the requirements of this article shall not provide a defense to criminal prosecution
8 under any applicable law.

9 **~~Sec. 24-402. Definitions.~~**

10 The following words and phrases, when used in this article, shall have the meanings
11 respectively assigned to them:

- 12 (1) ~~Director means the director of the department of excise and licenses, or the~~
13 ~~director's duly authorized representative.~~
- 14 (2) ~~Marijuana shall have the same meaning as the term "usable form of~~
15 ~~marijuana" as set forth in Article XVIII, Section 14(1)(i) of the Colorado~~
16 ~~Constitution, or as may be more fully defined in any applicable state law or~~
17 ~~regulation.~~
- 18 (3) ~~Medical marijuana dispensary means a business that sells or otherwise~~
19 ~~distributes marijuana through one (1) or more primary caregivers to six (6) or~~
20 ~~more patients for medical use, along with any cultivation of marijuana~~
21 ~~associated with such sale or distribution. The term "medical marijuana~~
22 ~~dispensary" shall not include any person or entity that distributes marijuana for~~
23 ~~medical use exclusively to five (5) or fewer patients, and shall not include the~~
24 ~~private possession and medical use of marijuana by an individual patient or~~
25 ~~caregiver to the extent permitted by Article XVIII, Section 14 of the Colorado~~
26 ~~Constitution and any other applicable state law or regulation.~~
- 27 (4) ~~Medical use shall have the same meaning as is set forth in Article XVIII,~~
28 ~~Section 14(1)(b) of the Colorado Constitution, or as may be more fully defined~~
29 ~~in any applicable state law or regulation.~~
- 30 (5) ~~Parent shall have the same meaning as set forth in Article XVIII, Section 14~~
31 ~~(1)(c) of the Colorado Constitution, or as may be more fully defined in any~~
32 ~~applicable state law or regulation.~~

1 ~~(6) Patient shall have the same meaning as is set forth in Article XVIII, Section~~
2 ~~14(1)(d) of the Colorado Constitution, or as may be more fully defined in any~~
3 ~~applicable state law or regulation.~~

4 ~~(7) Primary caregiver shall have the same meaning as is set forth in Article XVIII,~~
5 ~~Section 14(1)(f) of the Colorado Constitution, or as may be more fully defined~~
6 ~~in any applicable state law or regulation.~~

7 ~~(8) School or child care establishment means any public or private school meeting~~
8 ~~all requirements of the compulsory education laws of the state and providing~~
9 ~~instruction to students in kindergarten through grade twelve (12); any public or~~
10 ~~private schools or preschools that provide preparatory schooling for children of~~
11 ~~any age younger than the state age of mandatory attendance; or any child~~
12 ~~care establishment as defined by and regulated under chapter 11 of this Code.~~

13 **~~Sec. 24-403. License required.~~**

14 ~~(a) On and after March 1, 2010, and prior to July 1, 2012, it shall be unlawful for any~~
15 ~~person to sell or otherwise distribute any marijuana for medical use in Denver without~~
16 ~~obtaining a license to operate as a medical marijuana dispensary pursuant to the~~
17 ~~requirements of this article. This licensing requirement shall apply regardless of~~
18 ~~whether or not a medical marijuana dispensary has commenced operation prior to~~
19 ~~March 1, 2010. Any medical marijuana dispensary that has commenced operation~~
20 ~~prior to March 1, 2010, and for which a license application has been filed pursuant to~~
21 ~~this article prior to that date may continue in operation pending final action by the~~
22 ~~director on the application. Any such preexisting medical marijuana dispensary that~~
23 ~~does not or cannot meet the licensing requirements set forth in this article and~~
24 ~~therefore fails to obtain a license shall be terminated immediately upon such denial.~~

25 ~~(b) The license requirement set forth in this article shall be in addition to, and not in lieu~~
26 ~~of, any other licensing and permitting requirements imposed by any other federal,~~
27 ~~state, or city law including, by way of example, a retail sales tax license, a retail food~~
28 ~~establishment license if applicable, any applicable zoning or building permit, and an~~
29 ~~alarm system permit.~~

30 ~~(c) Applications for medical marijuana dispensary licenses may be accepted by the~~
31 ~~director pursuant to this article until close of business on July 1, 2010. After July 1,~~
32 ~~2010, no further applications for medical marijuana dispensaries shall be accepted or~~
33 ~~acted upon by the director pursuant to this article.~~

1 ~~(d) Notwithstanding any other provision of this code to the contrary, any medical~~
2 ~~marijuana dispensary license issued or renewed by the director pursuant to this~~
3 ~~article shall expire no later than June 30, 2012. Upon the face of any license issued~~
4 ~~or renewed after July 1, 2010, the director shall include an advisement to the licensee~~
5 ~~that, in order to lawfully continue operating a medical marijuana dispensary on and~~
6 ~~after July 1, 2012, the licensee shall be required to apply, pay all fees and meet all~~
7 ~~qualifications for licensing as a medical marijuana center under the requirements of~~
8 ~~Article 43.3 of Title 12, C.R.S., and any applicable city laws and regulations.~~

9 **~~Sec. 24-404. General licensing procedures.~~**

10 ~~Except as otherwise specifically provided in this article, the general procedures and~~
11 ~~requirements for issuance and administration of licenses by the director, as more fully set forth in~~
12 ~~article I of chapter 32, shall apply to medical marijuana dispensary licenses. To the extent there is~~
13 ~~any conflict between the provisions of this article and article I of chapter 32, the provisions of this~~
14 ~~article shall control.~~

15 **~~Sec. 24-405. Application.~~**

16 ~~(a) Application for a medical marijuana dispensary license shall be made to the director~~
17 ~~upon forms provided by the director for that purpose. In addition to the information~~
18 ~~required by chapter 32 of this Code, the application shall include the following~~
19 ~~information:~~

20 ~~(1) Name and address of the owner or owners of the medical marijuana~~
21 ~~dispensary in whose name the license is proposed to be issued.~~

22 ~~(2) If the owner is a corporation, the name and address of any officer or director of~~
23 ~~the corporation, and of any person holding ten (10) percent or more of the~~
24 ~~issued and outstanding capital stock of the corporation.~~

25 ~~(3) If the owner is a partnership, association or company, the name and address~~
26 ~~of any member holding ten (10) percent or more of the interest therein.~~

27 ~~(4) Name and address of any manager or managers of the medical marijuana~~
28 ~~dispensary, if the manager is proposed to be someone other than the owner.~~

29 ~~(5) A statement of whether or not any of the foregoing persons have:~~

30 ~~a. Been denied an application for a medical marijuana dispensary license~~
31 ~~pursuant to this article or any similar state or local licensing law, or had~~
32 ~~such a license suspended or revoked.~~

- ~~b. Been convicted of a felony or has completed any portion of a sentence due to a felony conviction within the preceding five (5) years.~~
- ~~(6) Proof of ownership or legal possession of the licensed premises for the term of the proposed license. If the licensed premises will be leased, the application shall include written consent by the owner of the property to the licensing of the premises for a medical marijuana dispensary.~~
- ~~(7) An operating plan for the proposed medical marijuana dispensary including the following information:~~
- ~~a. A description of the products and services to be provided by the medical marijuana dispensary, including an indication of whether or not the dispensary proposes to engage in the retail sale of food for human consumption.~~
- ~~b. A floor plan, drawn to scale, showing the layout of the medical marijuana dispensary and the principal uses of the floor area depicted therein, including a depiction of where any services other than the dispensing of medical marijuana are proposed to occur on the licensed premises.~~
- ~~c. A security plan indicating how the applicant intends to comply with the requirements of subsection 24-408 (g), including an indication of whether or not the applicant intends to utilize licensed security guards.~~
- ~~(8) An area map, drawn to scale, indicating, within a radius of one quarter mile from the boundaries of the property upon which the medical marijuana dispensary is located, the proximity of the property to any school or child care establishment, to any other medical marijuana dispensary, or to any residential zone district.~~
- ~~(b) Any application for a medical marijuana dispensary permit shall be accompanied by the application fee, criminal background check fee, and annual fee as required by section 32-93.~~
- ~~(c) Upon receipt of an application for a medical marijuana dispensary license, the director shall circulate the application to the department of community planning and development, the department of finance, the department of environmental health, the Denver Police Department, and the Denver Fire Department to determine whether~~

1 the proposed dispensary is in full compliance with any and all laws, rules and
2 regulations administered by the respective departments.

3 ~~(d) The director shall perform a criminal background investigation for each applicant or~~
4 ~~manager to determine compliance with section 24-406.~~

5 ~~(e) The director shall perform an inspection of the proposed licensed premises to~~
6 ~~determine compliance with any applicable requirement of this article.~~

7 ~~(f) The director shall deny any application for a license that is not in full compliance with~~
8 ~~this article, any other applicable city law or regulation, or any state law or regulation~~
9 ~~governing medical marijuana dispensaries. The director shall also deny any~~
10 ~~application that contains any false or incomplete information.~~

11 **~~Sec. 24-406. Persons prohibited as licensees and managers.~~**

12 ~~(a) No license provided by this article shall be issued to or held by:~~

13 ~~(1) Any person who, in the immediately proceeding twelve (12) months had a~~
14 ~~medical marijuana dispensary license revoked by the city.~~

15 ~~(2) Any person who has been convicted of a felony or has completed any portion~~
16 ~~of a felony sentence within the preceding five (5) years, with this prohibition~~
17 ~~applying to:~~

18 ~~a. Any owner who is a natural person.~~

19 ~~b. If the owner is a corporation, any officer or director of the corporation,~~
20 ~~and any person holding ten (10) percent or more of the issued and~~
21 ~~outstanding capital stock of the corporation.~~

22 ~~c. If the owner is a partnership, association or company, any member~~
23 ~~holding ten (10) percent or more of the interest therein.~~

24 ~~(b) No licensed premises shall be managed by any person who has been~~
25 ~~convicted of a felony or has completed any portion of a felony sentence~~
26 ~~within the preceding five (5) years.~~

27 **~~Sec. 24-407. Prohibited locations.~~**

28 ~~(a) All medical marijuana dispensary licenses shall be issued for a specific fixed location~~
29 ~~which shall be considered the licensed premises. All sales or distribution of medical~~
30 ~~marijuana shall be made directly by a primary caregiver to a patient upon the~~
31 ~~licensed premises, or via personal delivery of the medical marijuana by the primary~~
32 ~~caregiver from the licensed premises to the patient at the patient's residence.~~

33 ~~(b) No medical marijuana dispensary license shall be issued for the following locations:~~

- ~~(1) In any residential zone district as defined by the zoning code of the city as of March 1, 2010, or in any other location where retail sales are prohibited by the zoning code as of March 1, 2010.~~
- ~~(2) Within one thousand (1,000) feet of any school or child care establishment, with the distance computed by direct measurement from the nearest property line of the land used for school or child care purposes to the nearest portion of the building in which the medical marijuana dispensary is located, using a route of direct pedestrian access. This restriction shall not apply to any applicant who submits a license for a medical marijuana dispensary prior to March 1, 2010, for any location where the same applicant had commenced operation of a dispensary on or before December 15, 2009, as evidenced by the fact that the applicant submitted an application for a retail sales license for the dispensary which was date stamped as being received by the treasury division of the Denver Department of Finance on or before December 15, 2009, and thereby obtained a retail sales license for that location bearing an effective date of December 15, 2009 or earlier.~~
- ~~(3) Within one thousand (1,000) feet of any other medical marijuana dispensary, with the distance computed by direct measurement from the nearest portion of the building in which one (1) medical marijuana dispensary is located to the nearest portion of the building in which the other medical marijuana dispensary is located, using a route of direct pedestrian access. This restriction shall not apply to any applicant who submits a license for a medical marijuana dispensary prior to March 1, 2010, for any location where the same applicant had commenced operation of a dispensary on or before December 15, 2009, as evidenced by the fact that the applicant submitted an application for a retail sales license for the dispensary which was date stamped as being received by the treasury division of the Denver Department of Finance on or before December 15, 2009, and thereby obtained a retail sales license for that location bearing an effective date of December 15, 2009, or earlier.~~

~~Sec. 24-508. Requirements related to licensed premises.~~

- ~~(a) No marijuana shall be smoked, eaten or otherwise consumed or ingested on the licensed premises.~~

- ~~(b) No person under eighteen (18) years of age shall be permitted on the licensed premises, unless the person has been qualified to possess marijuana for medical use in accordance with Article XVIII, Section 14(6) of the Colorado Constitution and the person is accompanied by a parent.~~
- ~~(c) The name and contact information for the owner or owners and any manager of the medical marijuana dispensary shall be conspicuously posted in the dispensary.~~
- ~~(d) Any and all cultivation, processing, storage, display, sales or other distribution of marijuana shall occur within an enclosed building and shall not be visible from the exterior of the building.~~
- ~~(e) No licensed premises shall be managed by any person other than the owner or the manager listed on the application for the license.~~
- ~~(f) The medical marijuana dispensary shall be closed to the public, and no sale or other distribution of marijuana shall occur upon the licensed premises or via delivery from the licensed premises between the hours of 9:00 p.m. and 7:00 a.m.~~
- ~~(g) The licensed premises shall be monitored and secured twenty four (24) hours per day including, at a minimum, the following security measures:~~
- ~~(1) Installation and use of security cameras to monitor all areas of the licensed premises where persons may gain or attempt to gain access to marijuana or cash maintained by the medical marijuana dispensary. Recordings from security cameras shall be maintained for a minimum of seventy-two (72) hours in a secure off-site location.~~
- ~~(2) Installation and use of a safe for overnight storage of any processed marijuana, and cash on the licensed premises, with the safe being incorporated into the building structure or securely attached thereto.~~
- ~~(3) Installation of a monitored user alarm system pursuant to division 2 of article IV of chapter 42 of this Code.~~
- ~~(4) To the extent the licensee utilizes security guards to patrol the licensed premises, any such guards shall be duly licensed in accordance with article V of chapter 42 of this Code.~~

~~Sec. 24-408.5. Changing, altering, or modifying licensed premises.~~

- ~~(a) After issuance of a medical marijuana dispensary license, the licensee shall make no physical change, alteration, or modification of the licensed premises which materially or substantially alters the licensed premises or the usage of the licensed premises~~

1 from the plans and specifications submitted at the time of obtaining the original
2 license without the prior written consent of the director. For purposes of this section,
3 physical changes, alterations, or modifications requiring prior written consent shall
4 include, but not be limited to:

5 (1) Any increase in the total size or capacity of the licensed premises.

6 (2) The sealing off, creation of or relocation of a common entryway, doorway or
7 passage or other such means of public ingress or egress.

8 (3) Any substantial or material enlargement of a sales counter, or relocation of a
9 sales counter, or addition of a separate sales counter.

10 (4) Any material change in the interior of the premises that would affect the basic
11 character of the premises or the physical structure that existed in the plan on
12 file with the application.

13 The foregoing shall not apply to painting and redecorating of premises; the installation or
14 replacement of electric fixtures or equipment; the lowering of a ceiling; the installation and
15 replacement of floor coverings; the replacement of furniture and equipment; nor to any
16 nonstructural remodeling of a licensed premises where the remodel does not expand the existing
17 approved area.

18 (b) In making a decision with respect to any proposed changes, alterations, or
19 modifications, the director shall consider whether the premises, as changed, altered,
20 or modified, will comply with the requirements of this article XI and any other
21 applicable law or regulation.

22 **~~Sec. 24-409. Labeling.~~**

23 All marijuana sold or otherwise distributed by the licensee shall be packaged and labeled in
24 a manner that advises the purchaser that the marijuana is intended for use solely by the patient to
25 whom it is sold, and that any resale or redistribution of the marijuana to any third person is a
26 criminal violation.

27 **~~Sec. 24-410. Compliance with state law.~~**

28 (a) To the extent the state has adopted or adopts in the future any additional or stricter
29 law or regulation governing the sale or distribution of marijuana for medical use, the
30 additional or stricter regulation shall control the establishment or operation of any
31 medical marijuana dispensary in the city. Compliance with any applicable state law or
32 regulation shall be deemed an additional requirement for issuance or denial of any
33 license under this article, and noncompliance with any applicable state law or

1 regulation shall be grounds for revocation or suspension of any license issued
2 hereunder.

3 ~~(b) Any medical marijuana dispensary licensed pursuant to this article may be required~~
4 ~~to demonstrate, upon demand by the director or by law enforcement officers, that the~~
5 ~~source and quantity of any marijuana found upon the licensed premises is in full~~
6 ~~compliance with any applicable state law or regulation.~~

7 ~~(c) If the state prohibits the sale or other distribution of marijuana through medical~~
8 ~~marijuana dispensaries, any license issued pursuant to this article shall be deemed to~~
9 ~~be immediately revoked by operation of law, with no ground for appeal or other~~
10 ~~redress on behalf of the licensee.~~

11 ~~(d) The issuance of any license pursuant to this article shall not be deemed to create an~~
12 ~~exception, defense, or immunity to any person in regard to any potential criminal~~
13 ~~liability the person may have for the cultivation, possession, sale, distribution, or use~~
14 ~~of marijuana.~~

15 **~~Sec. 24-411. Transition provisions.~~**

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

25 ~~(b) Medical marijuana centers. For purposes of section 12-43.3-103(1)(a) of the~~
26 ~~Colorado Medical Marijuana Code, a business shall be deemed "locally approved"~~
27 ~~and potentially eligible for licensing as a medical marijuana center under the state~~
28 ~~code prior to July 1, 2012, if, on or before July 1, 2010, the business was operating~~
29 ~~as a licensed medical marijuana dispensary in Denver in compliance with the~~
30 ~~requirements of this article XI or the business owner or a previous owner of the same~~
31 ~~business had applied for a medical marijuana dispensary license in accordance with~~
32 ~~the requirements of this article XI and the application for a medical marijuana~~
33 ~~dispensary has not been denied by the Director. A licensed medical marijuana~~

1 ~~dispensary qualifying as a "locally approved" business within the meaning of this~~
2 ~~subsection (b) shall be potentially eligible for licensing under the Colorado Medical~~
3 ~~Marijuana Code as a medical marijuana center prior to July 1, 2012, regardless of~~
4 ~~any change of ownership or change of location of the business after July 1, 2010, so~~
5 ~~long as the business meets all applicable requirements for licensing as set forth in~~
6 ~~state and city laws.~~

7 ~~(c) — Medical marijuana infused products manufacturers. For purposes of section 12-43.3-~~
8 ~~103(1)(a) of the Colorado Medical Marijuana Code, a business shall be deemed~~
9 ~~"locally approved" and potentially eligible for licensing as a medical marijuana infused~~
10 ~~products manufacturer under the state code prior to July 1, 2012 if:~~

11 ~~(1) — On or before July 1, 2010, the business owner or a previous owner of the~~
12 ~~same business had applied for or received any and all city licenses or permits~~
13 ~~generally applicable to the manufacturing and wholesale distribution of~~
14 ~~products designed for human consumption, including, but not limited to, edible~~
15 ~~products, ointments and tinctures; and~~

16 ~~(2) — The business is located or proposed to be located on a site where commercial~~
17 ~~manufacturing and wholesale distribution of manufactured products is~~
18 ~~permitted by applicable city zoning laws.~~

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

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

29 ~~(1) — On or before July 1, 2010, the business owner or a previous owner of the~~
30 ~~same business had applied for or received any and all city license and permits~~
31 ~~generally applicable to commercial plant husbandry or was leasing or~~
32 ~~subleasing property for the purpose of medical marijuana cultivation from~~

1 another property owner or business owner who had applied for or received
2 such licenses and permits.

3 ~~(2) The business is located or proposed to be located on a site where commercial~~
4 ~~plant husbandry and wholesale distribution of plant products is permitted by~~
5 ~~applicable city zoning laws; and~~

6 ~~(3) The business is owned in common with either a medical marijuana center or a~~
7 ~~medical marijuana infused products manufacturer meeting the requirements of~~
8 ~~any and all applicable state and local laws.~~

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

15 ~~(e) No entitlement to licensing. Nothing in this section shall be deemed to create any~~
16 ~~property interest, vested right, or entitlement to receive a future license to operate a~~
17 ~~medical marijuana center, a medical marijuana infused products manufacturer, or an~~
18 ~~optional premises grow operation under the Colorado Medical Marijuana Code. In~~
19 ~~order to lawfully remain in existence on and after July 1, 2012, any and all~~
20 ~~commercial medical marijuana businesses shall be required to qualify for state and~~
21 ~~local licensing under the state code and otherwise comply fully with the requirements~~
22 ~~of any other applicable state or city laws.~~

1 COMMITTEE APPROVAL DATE: January 19, 2016
2 MAYOR-COUNCIL DATE: January 26, 2016
3 PASSED BY THE COUNCIL: _____, 2016
4 _____ - PRESIDENT
5 APPROVED: _____ - MAYOR _____, 2016
6 ATTEST: _____ - CLERK AND RECORDER,
7 EX-OFFICIO CLERK OF THE
8 CITY AND COUNTY OF DENVER
9 NOTICE PUBLISHED IN THE DAILY JOURNAL: _____, 2016; _____, 2016
10 PREPARED BY: Marley Bordovsky, Assistant City Attorney DATE: January 28, 2016
11 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of
12 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
13 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to §
14 3.2.6 of the Charter.
15 D. Scott Martinez, Denver City Attorney
16 BY: _____, Assistant City Attorney DATE: _____, 2016