

1 BY AUTHORITY

2 ORDINANCE NO. _____

COUNCIL BILL NO. 11-0645

3 SERIES OF _____

COMMITTEE OF REFERENCE:

4 Business, Workforce & Sustainability Committee

5
6 A BILL

7 **For an ordinance amending city laws related to the licensing of medical**
8 **marijuana businesses.**
9

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

11
12 **Section 1.** That section 24-411, D.R.M.C. shall be amended by deleting the language stricken
13 and adding the language underlined, to read as follows:

14
15 **Section 24-411. Transition provisions.**

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

25 (b) *Medical marijuana centers.* For purposes of section 12-43.3-103(1)(a) of the Colorado
26 Medical Marijuana Code, a business shall be deemed "locally approved" and potentially eligible for
27 licensing as a medical marijuana center under the state code prior to July 1, 2012 if, on or before July
28 1, 2010, the business ~~is~~ was operating as a licensed medical marijuana dispensary in Denver in
29 compliance with the requirements of this article XI or the business owner ~~has~~ or a previous owner of
30 the same business had applied for a medical marijuana dispensary license in accordance with the
31 requirements of this article XI and the application for a medical marijuana dispensary has not been
32 denied by the Director. A licensed medical marijuana dispensary qualifying as a "locally approved"
33 business within the meaning of this subsection (b) shall be potentially eligible for licensing under the
34 Colorado Medical Marijuana Code as a medical marijuana center prior to July 1, 2012 regardless of
35 any change of ownership or change of location of the business after July 1, 2010, so long as the
36 business meets all applicable requirements for licensing as set forth in state and city laws.
37

38 (c) *Medical marijuana infused products manufacturers.* For purposes of section 12-43.3-
39 103(1)(a) of the Colorado Medical Marijuana Code, a business shall be deemed "locally approved"
40 and potentially eligible for licensing as a medical marijuana infused products manufacturer under the
41 state code prior to July 1, 2012 if:
42

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

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

16
17 (d) *Optional premises cultivation operations.* For purposes of section 12-43.3-103(1)(a) of the
18 Colorado Medical Marijuana Code, a business shall be deemed "locally approved" and potentially
19 eligible for licensing as an optional premises cultivation operation under the state code prior to July 1,
20 2012 if:
21

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

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

44 (e) *No entitlement to licensing.* Nothing in this section shall be deemed to create any
45 property interest, vested right, or entitlement to receive a future license to operate a medical
46 marijuana center, a medical marijuana infused products manufacturer, or an optional premises
47 grow operation under the Colorado Medical Marijuana Code. In order to lawfully remain in
48 existence on and after July 1, 2012, any and all commercial medical marijuana businesses shall

1 be required to qualify for state and local licensing under the state code and otherwise comply fully
2 with the requirements of any other applicable state or city laws.
3

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

7 **Section 24-503. – Effective date; applicability.**
8

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

16 (1) An applicant for medical marijuana center licensing may continue in operation on
17 and after July 1, 2011 if the applicant or a previous owner of the same business:
18

19 a. Applied for a medical marijuana dispensary license from Denver prior to July 1,
20 2010 in the same location or in any other location in Denver in accordance with Article
21 XI of this Chapter 24, and was not denied the license by the director,~~and commenced~~
22 ~~operation of the licensed dispensary prior to July 1, 2011;~~ and
23

24 b. Applied for a license for the same business as a medical marijuana center with the
25 state licensing authority by August 1, 2010 under the requirements of section 12-43.3-
26 103 of the Colorado Medical Marijuana Code; and
27

28 c. Has not had the application for a medical marijuana center denied by either the state
29 or local licensing authority.
30

31 (2) An applicant for a medical marijuana infused products manufacturing license or an
32 optional premises cultivation operations license may continue in operation on and after
33 July 1, 2011 if the applicant or a previous owner of the same business:
34

35 a. Met the requirements for a locally approved medical marijuana business as of
36 July 1, 2010 as set forth in section 24-411 in the same location or in any other location
37 in Denver; and
38

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

44 c. Has not had the application for a medical marijuana infused products
45 manufacturing or optional premises cultivation denied by either the state or local
46 licensing authority.
47

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

5
6 (c) *Receipt of applications for new licensing.* At such time as application forms are
7 made available by the state licensing authority, the director shall begin to receive and process
8 applications for licensing under the CMMC and this article XII.

9
10 (d) *Prohibition on new medical marijuana businesses prior to July 1, 2012.* It shall be
11 unlawful for any person to commence operation of any business of selling, offering for sale,
12 distributing, cultivating or manufacturing medical marijuana prior to July 1, 2012 unless the person
13 had applied for a license or permit from the city on or before July 1, 2010 in accordance with section
14 24-411, had applied for state licensing on or before August 1, 2010 in accordance with § 12-43.3-103
15 (1)(b), C.R.S., and was otherwise fully in compliance with the requirements of Article XI of this
16 Chapter and the CMMC.

17
18 **Section 3.** That paragraphs (1) through (4) of subsection (c) of section 24-508, D.R.M.C.,
19 shall be amended by deleting the language stricken and adding the language underlined, to read
20 as follows:

21
22 **Sec. 24-508. Licensing requirements—Medical marijuana centers.**

23
24 (c) *Prohibited locations.* No medical marijuana center license shall be issued for the following
25 locations:

26
27 (1) In any residential zone district as defined by the zoning code of the city, in any MS-2, MS-
28 2x, MX-2, MX-2A or MX-2x zone district as defined by the zoning code of the city, or in any
29 location where retail sales are prohibited by the zoning code or by any ordinance governing
30 a planned unit development. The restriction against licensing a medical marijuana center in
31 any MS-2, MS-2x, MX-2, MX-2A or MX-2x zone district shall not apply to any location
32 where ~~the same applicant submitted a license application for a medical marijuana~~
33 ~~dispensary under article XI of this chapter 24 on or before July 1, 2010, and subsequently~~
34 ~~received a license under article XI~~ the director previously issued a medical marijuana
35 dispensary license under article XI of this chapter 24, a licensed dispensary commenced
36 operations at the subject location, and a licensed medical marijuana dispensary or center
37 has existed in continuous operations at the subject location since the time of original
38 licensing.

39
40 (2) Within one thousand (1,000) feet of any school or child care establishment, with the
41 distance computed by direct measurement from the nearest property line of the land used
42 for school or child care purposes to the nearest portion of the building in which the medical
43 marijuana dispensary is located, using a route of direct pedestrian access. This restriction
44 shall not apply to any location where ~~the same applicant submitted a license application for~~
45 ~~a medical marijuana dispensary under article XI of this chapter 24 prior to March 1, 2010,~~

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

7
8 (3) Within one thousand (1,000) feet of any other medical marijuana center licensed premises
9 or of any premises licensed under article XI of this chapter 24, with the distance computed
10 by direct measurement from the nearest portion of the building in which one (1) center is
11 located to the nearest portion of the building in which the other center is located, using a
12 route of direct pedestrian access. This restriction shall not apply to any location where ~~the~~
13 ~~same applicant submitted a license application for a medical marijuana dispensary under~~
14 ~~article XI of this chapter 24 prior to March 1, 2010, was exempt from the spacing~~
15 ~~requirement set forth in article XI, and subsequently received a license under article XI.~~ the
16 director previously issued a medical marijuana dispensary license under article XI of this
17 chapter 24, a licensed dispensary commenced operations at the subject location, and a
18 licensed medical marijuana dispensary or center has existed in continuous operations at
19 the subject location since the time of original licensing.
20

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

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

36 **Sec. 24-513. - Term of licenses; renewals.**
37

38 (a) Any local license issued pursuant to this article XII shall be valid for a period of two
39 (2) years from the date of issuance. Any renewal of the license shall be governed by the
40 standards and procedures set forth in the CMMC and any regulations adopted pursuant
41 thereto, subject to any additional restrictions on renewal for certain classes of licenses in
42 certain locations as provided in this article XII.
43

1 (b) On or before the one-year anniversary date of any license issued pursuant to this
2 article XII, the licensee shall demonstrate to the satisfaction of the director that the
3 licensee has applied for and received a one-year renewal of the licensee's state license
4 from the state licensing authority and shall pay the annual licensing fee for the second
5 year of the local license as provided in section 32-93 (3). Failure of the licensee to renew
6 and keep current the state license or to make timely payment of the local licensing fee
7 shall be grounds for immediate revocation of any license issued pursuant to this article
8 XII.
9

10 **Section 5.** That the introductory clause to subsection 24-510 (a)(2), D.R.M.C. shall be
11 amended by deleting the language stricken and adding the language underlined to read as
12 follows:

13 (2) Notwithstanding the requirement set forth in paragraph (1) of this subsection (a),
14 prior to July 1, ~~2014~~ 2012, an optional premises cultivation license may be issued in a
15 location where plant husbandry is not a permitted use but is already occurring as a
16 compliant or nonconforming use under the zoning code, if and only if the applicant meets
17 the following requirements:

18
19 COMMITTEE APPROVAL DATE: October 26, 2011.
20 MAYOR-COUNCIL DATE: November 1, 2011.

21 PASSED BY THE COUNCIL _____ 2011
22 _____ - PRESIDENT

23 APPROVED: _____ - MAYOR _____ 2011

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

27
28 NOTICE PUBLISHED IN THE DAILY JOURNAL _____ 2011; _____ 2011

29
30 PREPARED BY: David W. Broadwell, Asst. City Attorney; DATE: November 3, 2011.
31

32 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of the
33 City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
34 ordinance. The proposed ordinance **is not** submitted to the City Council for approval pursuant to §
35 3.2.6 of the Charter.
36

37 Douglas J. Friednash, Denver City Attorney

38
39 BY: _____, Assistant City Attorney DATE: _____, 2011