

1 **BY AUTHORITY**

2 ORDINANCE NO. \_\_\_\_\_  
3 SERIES OF 2014

COUNCIL BILL NO. 14-0711  
COMMITTEE OF REFERENCE:  
4 Safety and Well-being Committee

5 **A BILL**

6 **For an Ordinance amending Article V of Chapter 38, Offenses Relating to**  
7 **Drugs and Intoxicants, by adding certain provisions concerning the**  
8 **extraction of marijuana concentrate.**

9 **WHEREAS**, the possession of any quantity of marijuana concentrate has historically been  
10 treated as completely unlawful in Colorado; and

11 **WHEREAS**, because possession of marijuana concentrate has historically been treated as  
12 completely unlawful, state and city laws have never been necessary to address how and where  
13 marijuana concentrate may be extracted from marijuana plants; and

14 **WHEREAS**, the adoption of Amendment 20 adding Section 14 to Article XVIII of the  
15 Colorado Constitution, created an affirmative defense and a limited exception to state criminal laws  
16 for patients and primary caregivers who possess or produce a limited amount of marijuana  
17 concentrate for medical use to treat a debilitating medical condition; and

18 **WHEREAS**, Amendment 20 prohibits both patients and primary caregivers from acquiring or  
19 producing marijuana concentrate in a way that endangers the health or well-being of any person;  
20 and

21 **WHEREAS**, the adoption of Amendment 64 adding a new Section 16 to Article XVIII of the  
22 Colorado Constitution, allows persons over the age of 21 in Colorado now to claim immunity from  
23 prosecution under state or city laws for possessing or processing marijuana concentrate in a  
24 quantity of one ounce or less for personal use or for distribution to others without compensation;  
25 and

26 **WHEREAS**, Amendment 64 provides that, in the interest of the health and public safety of  
27 our citizenry, marijuana sold in Colorado will be subject to additional regulations to ensure that  
28 consumers are protected; and

29 **WHEREAS**, both Amendment 20 and Amendment 64 are silent on the question of how and

1 where marijuana concentrate may be processed or manufactured for medical or personal use; and

2 **WHEREAS**, this state of affairs has resulted in a gap in the law in terms of regulating the  
3 appropriate methods and locations where marijuana concentrate may be extracted from marijuana  
4 plants, which has led to numerous examples of persons using highly dangerous methods of  
5 extracting marijuana concentrate in inappropriate, unregulated settings, including residential  
6 locations.

7 **WHEREAS**, the purpose of this ordinance is not to prohibit all forms of marijuana  
8 concentrate extraction, but instead to limit the more dangerous methods of extraction to licensed  
9 and regulated locations.

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

12 **Section 1.** Section 38-177 (Extraction of Marijuana Concentrate Prohibited) of the Denver  
13 Revised Municipal Code shall be amended by adding the language underlined, and deleting the  
14 language stricken, to read as follows:

15 **Sec. 38-177. Extraction of Marijuana Concentrate Prohibited.**

- 16 (a) Except as provided in paragraph (c) of this section, it shall be unlawful for any person to  
17 process or manufacture marijuana concentrate anywhere in the city.
- 18 (b) Except as provided in paragraph (c) of this section, it shall be unlawful for any person who  
19 owns, manages, operates or otherwise controls the use of any premises anywhere in the  
20 city to allow marijuana concentrate to be processed or manufactured on the premises.
- 21 (c) It shall not be an offense under 38-177(a) or 38-177(b) if:
  - 22 1. The production of marijuana concentrate is done by licensed personnel in a  
23 licensed medical marijuana infused products manufacturing facility or in a  
24 licensed retail marijuana products manufacturing facility and in compliance with  
25 all applicable state and city laws, and all rules and regulations promulgated  
26 thereunder, including any and all necessary permits; or,
  - 27 2. The production of marijuana concentrate is done by means of water-based  
28 extraction or food-based extraction methods outside of a licensed medical  
29 marijuana-infused products manufacturing facility or a licensed retail marijuana

1 processing facility, and is done in full compliance with any and all other  
2 applicable state and city laws; or,

- 3 3. The marijuana concentrate is processed or manufactured using alcohol or  
4 ethanol outside of a licensed medical marijuana-infused products manufacturing  
5 facility or a licensed retail marijuana products manufacturing facility in  
6 compliance with all applicable state and city laws, and all rules and regulations  
7 promulgated thereunder; where,
- 8 i. The production of marijuana concentrate is done without the application of any  
9 heat from a fuel-fired or electrified source and uses no more than 16 ounces of  
10 alcohol or ethanol during each extraction process; or,
- 11 ii. The production of marijuana concentrate is done by a person who, at the time  
12 of production, holds a valid permit issued by the Denver Fire Department  
13 pursuant to the Denver Building and Fire Code.

14 (d) For purposes of this section:

- 15 1. “Food-based extraction” means producing marijuana concentrate by extracting  
16 cannabinoids from marijuana through the use of propylene glycol, glycerin,  
17 butter, olive oil, or other typical cooking fats. Except as otherwise provided in  
18 paragraph (c) of this section, “flammable liquids” may not be used in food-based  
19 extractions.
- 20 2. “Flammable liquid” means a liquid that has a flash point below 100° Fahrenheit,  
21 and includes all forms of alcohol and ethanol.
- 22 3. “Marijuana” means all parts of the plant of the genus cannabis whether growing  
23 or not, including but not limited to the seeds, leaves, buds, flowers, and any  
24 mixture or preparation thereof, without regard for cannabinoid concentration  
25 levels.
- 26 4. “Marijuana concentrate” means hashish, cannabinoids, or any alkaloid, salt,  
27 derivative, preparation, compound, or mixture, whether natural or synthesized, of  
28 cannabinoids.
- 29 5. “Water-based extraction” means producing marijuana concentrate by extracting  
30 cannabinoids from marijuana through the use of only water, ice or dry ice.
- 31 6. The definitions of “medical marijuana-infused products manufacturer” and “retail  
32 marijuana products manufacturing facility” as set forth in the Colorado Medical

1 Marijuana Code, §12-43.3-104, C.R.S., as amended, and the Colorado Retail  
2 Marijuana Code, §12-43.4-103, C.R.S., as amended, shall apply equally to this  
3 article V.

4 COMMITTEE APPROVAL DATE: October 14, 2014

5 MAYOR-COUNCIL DATE: October 21, 2014

6 PASSED BY THE COUNCIL: \_\_\_\_\_, 2014

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

8 APPROVED: \_\_\_\_\_ - MAYOR \_\_\_\_\_, 2014

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

12 NOTICE PUBLISHED IN THE DAILY JOURNAL: \_\_\_\_\_, 2014; \_\_\_\_\_, 2014

13 PREPARED BY: Marley M. Bordovsky, Assistant City Attorney DATE: October 30, 2014

14 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of  
15 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed  
16 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to §  
17 3.2.6 of the Charter.

18 D. Scott Martinez, Denver City Attorney

19 BY: \_\_\_\_\_, Assistant City Attorney DATE: \_\_\_\_\_, 2014