

1 BY AUTHORITY

2 ORDINANCE NO. _____
3 SERIES OF _____

COUNCIL BILL NO. 12-0586
COMMITTEE OF REFERENCE:
Business, Workforce and
Sustainability

7 A BILL

8 For an ordinance regulating outdoor advertising associated with the sale or distribution
9 of medical marijuana by licensed medical marijuana centers and medical marijuana
10 infused products manufacturers
11

12 **WHEREAS**, although section 14 of Article XVIII of the Colorado Constitution establishes an
13 exception to criminal prosecution for the distribution of marijuana for medical purposes in Colorado
14 and, through the adoption of the Colorado Medical Marijuana Code, the state has provided a detailed
15 licensing and regulatory scheme for the commercial distribution of medical marijuana, nevertheless
16 the sale or distribution of marijuana continues to be prohibited by federal law; and

17 **WHEREAS**, the sale or distribution of medical marijuana to the general public is not permitted
18 under the Colorado Medical Marijuana Code, and instead distribution is limited to a special class of
19 “patients” who suffer “debilitating medical conditions” within the meaning of section 14 (1) of Article
20 XVIII of the constitution and who have been duly qualified and registered under state law, thus
21 obviating the need to market and advertise medical marijuana to the public at large; and

22 **WHEREAS**, medical marijuana advertising that uses the same techniques and media utilized to
23 advertise products and services that are available for sale to the general public is inherently deceptive,
24 because such advertising obfuscates the fact that marijuana is not lawfully available to consumers in
25 the same manner as other products and services are, and creates the false impression that the sale of
26 marijuana may be available for non-medical uses; and

27 **WHEREAS**, the Colorado Medical Marijuana Code establishes a system of licensing and
28 regulation for medical marijuana businesses that is more rigorous and more restrictive than virtually
29 any other licensed occupation in the state, and sale of medical marijuana is only permitted as a
30 privilege under the auspices of a license and not as a matter of right; and

31 **WHEREAS**, for the foregoing reasons, the city has a compelling interest in making a legal
32 distinction for and regulating medical marijuana advertising in a manner that is more restrictive than
33 the manner in which other commercial advertising is regulated; and

34 **WHEREAS**, the Colorado Medical Marijuana Code requires licensed medical marijuana centers
35 to comply with the laws adopted by local licensing authorities, and specifically requires licenses to

1 comply with any and all applicable local sign codes.

2

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

5 **Section 1.** That subsection 24-508 (e), D.R.M.C. shall be amended by adding the language
6 underlined, to read as follows:

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

8 In addition to the requirements set forth in the CMMC, the following requirements shall apply to the
9 issuance of any local license for a medical marijuana center:

10 (e) *Signs and advertising.*

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

16

17 (2) Any person licensed as a medical marijuana center or a medical marijuana-infused
18 products manufacturer shall include in any advertisement for medical marijuana or any medical
19 marijuana-infused product the following language: “For registered Colorado medical marijuana
20 patients only.” Provided, however, this language shall not be required to be displayed upon
21 any sign identifying a medical marijuana center, as permitted by subparagraph (3)(i) of this
22 subsection (e).

23

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

33

- 1 (i) Any sign located on the same zone lot as a medical marijuana
 2 center which exists solely for the purpose of identifying the location
 3 of the medical marijuana center and which otherwise complies with
 4 the Denver Zoning Code and any other applicable city laws and
 5 regulations; or
 6
 7 (ii) Any advertisement contained within a newspaper, magazine, or
 8 other periodical of general circulation within the city; or
 9
 10 (iii) Advertising which is purely incidental to sponsorship of a charitable
 11 event by a medical marijuana center or a medical marijuana-
 12 infused products manufacturer.
 13

14 (4) For purposes of this subsection (e), the terms “advertise,” “advertising” or
 15 “advertisement” means the act of drawing the public’s attention to a medical marijuana
 16 center or medical marijuana infused products manufacturer in order to promote the sale
 17 of medical marijuana by the center or the manufacturer.
 18

19 COMMITTEE APPROVAL DATE: _____, 2012.

20 MAYOR-COUNCIL DATE: _____, 2012.

21 PASSED BY THE COUNCIL _____ 2012

22 _____ - PRESIDENT

23 APPROVED: _____ - MAYOR _____ 2012

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

30 PREPARED BY: David W. Broadwell, Asst. City Attorney; DATE: August 2, 2012
 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

1 Douglas J. Friednash, City Attorney

2 BY: _____, _____ City Attorney

3 DATE: _____

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5 SPONSORED BY COUNCIL MEMBERS: Herndon and Ortega

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