

BY AUTHORITY

ORDINANCE NO. _____
SERIES OF 2015

COUNCIL BILL NO. CB15-0913
COMMITTEE OF REFERENCE:
Business Development Committee

A BILL

For an ordinance concerning the licensing and regulation of marijuana businesses, and in connection therewith, amending Article V of Chapter 6 of the Denver Revised Municipal Code to extend the time period during which eligibility for a new retail marijuana business license is limited to certain preexisting medical marijuana licensees, and amending Article XII of Chapter 24 of the Denver Revised Municipal Code to impose a moratorium on the issuance of new medical marijuana licenses.

WHEREAS, the City has developed robust rules, regulations and policies to ensure that the marijuana industry is held to the highest standards;

WHEREAS, the transition phase adopted in the 2013 Denver Retail Marijuana Code was intended to facilitate the orderly and controlled implementation of a wholly new regulatory structure launching and managing commercial retail marijuana businesses by limiting licenses to previously existing medical businesses;

WHEREAS, the transition phase was also intended to provide time to assess the community impacts of retail marijuana;

WHEREAS, the initial application and licensing process for retail marijuana was accomplished in a smooth and orderly manner, and now the City desires an opportunity to review and assess the impacts of two years of growth in both retail marijuana and medical marijuana licenses;

WHEREAS, although the transition phase placed constraints on new retail marijuana licenses, no such constraints were placed on new medical marijuana licenses;

WHEREAS, throughout the transition phase, new market participants continued to apply for new medical marijuana licenses at an unexpectedly high rate and under less stringent rules than those applicable to retail marijuana;

WHEREAS, despite the steady influx of applications for medical marijuana licenses, there has been no appreciable increase in the number of medical marijuana patients actually registered with the state of Colorado over the past few years and, since medical marijuana cannot be sold to persons other than registered medical marijuana patients or to out-of-state visitors, this stabilization in the number of

1 registered medical marijuana patients cannot be reconciled with the steady increase in medical
2 marijuana license applications;

3 **WHEREAS**, as the end of the original transition phase approaches, the City now has more than 1,000
4 marijuana licenses operating out of more than 400 unique physical locations, so that marijuana is
5 readily accessible in the City and County of Denver;

6 **WHEREAS**, the City infrastructure is still adjusting and responding to this new and evolving industry
7 and regulatory environment, communities are still assessing the impact on their neighborhoods,
8 including the impact of this burgeoning industry on available industrial warehouse space, and
9 researchers are only starting to study the long-term social and public health impacts of marijuana
10 legalization;

11 **WHEREAS**, the State is in the process of implementing new production management rules to control
12 for overproduction and the inherent risks of overproduction as it relates to the black market;

13 **WHEREAS**, the extension of the transition phase on retail marijuana licenses, coupled with a
14 moratorium on new medical marijuana licenses, will allow additional time for the City to assess the
15 impact of commercial marijuana cultivation, production and sales in our communities; to further
16 research, understand, and develop measured and thoughtful responses to unanticipated
17 consequences of legalized marijuana; to manage the more than 1,000 licenses already issued by the
18 City; and to integrate the production information gathered by the state over the next two years into
19 data-driven policy decisions.

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

21 **Section 1.** Section 6-203 of the Denver Revised Municipal Code shall be amended by
22 adding the language underlined and deleting the language stricken to read as follows:

23 **Sec. 6-203. Transition Provision.**

24 (a) Prior to ~~January~~ May 1, 2016, no retail marijuana store, retail marijuana cultivation facility, or
25 retail marijuana products manufacturer shall be licensed or otherwise permitted in the city
26 unless:

27 (1) The applicant for licensing of a retail marijuana establishment was, as of October 1, 2013,
28 operating in good standing a medical marijuana center, a medical marijuana optional
29 premises cultivation operation, or a medical marijuana-infused products manufacturing
30 operation; the applicant is, as of the time of application for a local license under this article
31 V, currently licensed under both the Colorado Medical Marijuana Code and the Denver

1 Medical Marijuana Code; and the applicant proposes to surrender the existing medical
2 marijuana licenses upon receipt of a retail marijuana license, thereby entirely converting an
3 existing medical marijuana establishment into a retail marijuana establishment; or

4 (2) The applicant for licensing of a retail marijuana establishment was, as of October 1, 2013,
5 operating in good standing a medical marijuana center, a medical marijuana optional
6 premises cultivation operation, or a medical marijuana-infused products manufacturing
7 operation; the applicant is, as of the time of application for a local license under this article
8 V, currently licensed under both the Colorado Medical Marijuana Code and the Denver
9 Medical Marijuana Code; and the applicant proposes to retain the existing medical
10 marijuana license while locating a retail marijuana establishment under common
11 ownership at the same location to the extent allowed by the Colorado Retail Marijuana
12 Code and applicable state rules and regulations.

13 (b) Prior to ~~January~~ May 1, 2016, any person who obtains a transfer of ownership of the state and
14 local licenses for a medical marijuana business that was operating in good standing as of
15 October 1, 2013 and is duly licensed under both the Colorado Medical Marijuana Code and the
16 Denver Medical Marijuana Code may qualify for licensing as a retail marijuana establishment
17 in the city as allowed by subsection (a) of this section.

18 (c) Prior to ~~January~~ May 1, 2016, any person who obtains a change of location of the state and
19 local licenses for a medical marijuana business that was operating in good standing as of
20 October 1, 2013 and is duly licensed under both the Colorado Medical Marijuana Code and the
21 Denver Medical Marijuana Code may qualify for licensing as a retail marijuana establishment
22 in the new location as allowed by subsection (a) of this section; provided, however, no change
23 of location of a medical marijuana center license with the intent to apply for licensing as a retail
24 marijuana store in the new location shall be approved unless and until a public hearing is
25 conducted in accordance with section 6-212 and the director has determined that the applicant
26 qualifies for licensing of a retail marijuana store in the new location. For any application
27 involving transfer of location of an existing medical marijuana center and conversion to or co-
28 location of a retail marijuana store at the new location, good cause for denial of the retail
29 marijuana store license shall include, in addition to the factors set forth in section 6-212,
30 evidence that the medical marijuana center was operated in a manner that adversely affected
31 the public health, welfare, or safety of the immediate neighborhood in which the center was
32 previously located.

1 (d) On and after ~~January~~ May 1, 2016, unless otherwise provided by law, any person who
2 otherwise qualifies for licensing under applicable state and city laws may apply for licensing of
3 a retail marijuana establishment in the city, regardless of whether or not the applicant is the
4 owner of an existing medical marijuana business in the city.

5 **Section 2.** Section 6-209 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. 6-209. Screening and response to state license applications.**

8 (1) For all applications received prior to ~~January~~ May 1, 2016, determine whether the applicant
9 qualifies for licensing as an existing medical marijuana business in the city, to the extent
10 allowed by section 6-203. If the director makes an initial determination that the applicant
11 does not qualify for licensing prior to ~~January~~ May 1, 2016, the director shall, no later than
12 forty-five (45) days from the date the application was originally received by the state
13 licensing authority, notify the state licensing authority and the applicant for state licensing
14 in writing that the application is disapproved by the city. The failure of the director to make
15 such a determination upon the initial review of a state license application shall not preclude
16 the director from later determining that the applicant does not qualify for licensing prior to
17 ~~January~~ May 1, 2016 as provided in section 6-203, and disapprove the issuance of a state
18 or city license on this basis.

19 (2) Determine, in consultation with the manager of the department of community planning and
20 development, whether or not the location proposed for licensing complies with any and all
21 zoning and land use laws of the city, and any and all restrictions on location of retail
22 marijuana establishments set forth in this article V. If the director makes an initial
23 determination that the proposed license would be in violation of any zoning law or other
24 restriction on location set forth in city laws, the director shall, no later than forty-five (45)
25 days from the date the application was originally received by the state licensing authority,
26 notify the state licensing authority and the applicant for state licensing in writing that the
27 application is disapproved by the city. The failure of the director to make such a
28 determination upon the initial review of a state license application shall not preclude the
29 director from later determining that the proposed license is in violation of city zoning laws
30 or any other restriction on location set forth in city laws, and disapprove the issuance of a
31 state or city license on this basis.

32 **Section 5.** Chapter 24 of the Denver Revised Municipal Code shall be amended by adding
33 a new section 24-503.5 to read as follows:

1 **Sec. 24-503.5. Temporary moratorium.**

2 (a) The issuance of new medical marijuana business licenses for medical marijuana centers,
3 medical marijuana optional premises cultivation operations, and medical marijuana-infused
4 products manufacturing operations shall be and hereby is limited by the following moratorium:

5 (1) The moratorium shall be in effect beginning January 1, 2016;

6 (2) The moratorium shall end on May 1, 2016;

7 (3) During the period of the moratorium, under no circumstances shall the director receive any
8 new application for a medical marijuana establishment described in this subsection (a).

9 (b) This moratorium shall not apply to any new license applications for a medical marijuana
10 establishment described in this subsection (a) which have been submitted to the city in
11 complete form, with any required fees paid, prior to January 1, 2016.

12 COMMITTEE APPROVAL DATE: November 24, 2015

13 MAYOR-COUNCIL DATE: December 1, 2015

14 PASSED BY THE COUNCIL: _____, 2015

15 _____ - PRESIDENT

16 APPROVED: _____ - MAYOR _____, 2015

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

20 NOTICE PUBLISHED IN THE DAILY JOURNAL: _____, 2015; _____, 2015

21 PREPARED BY: Marley Bordovsky, Assistant City Attorney DATE: December 3, 2015

22 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of
23 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
24 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to §
25 3.2.6 of the Charter.

26 D. Scott Martinez, Denver City Attorney

27 BY: _____, Assistant City Attorney DATE: _____, 2015