

Draft Text of Retail Marijuana Local Licensing Ordinance

Section 1. Amend the title of Chapter 6, D.R.M.C. by adding the language underlined, to read as follows:

Chapter 6

Alcohol Beverages and Retail Marijuana

Section 2. Amend Chapter 6, D.R.M.C. by adding a new Article V, to read as follows:

ARTICLE V

DENVER RETAIL MARIJUANA CODE

Sec. 6-200. Purpose and legislative intent.

Section 16 of Article XVIII of the Colorado Constitution, also commonly known as Amendment 64 of 2012, authorizes a system of state licensing for businesses engaging in the cultivation, testing, manufacturing, and retail sale of marijuana, collectively referred to as "marijuana establishments" by the constitution. Subsection 16 (5)(f) of Article XVIII allows localities, within their respective jurisdictions: to prohibit state licensing of marijuana establishments; to regulate the time, place, and manner in which marijuana establishments may operate; and to limit the total number of marijuana establishments. The authority of localities to prohibit or regulate marijuana establishments within their respective jurisdictions, including the authority to engage in local licensing of marijuana establishments, is also reflected in various provisions of the Colorado Retail Marijuana Code, Article 43.4 of Title 12, C.R.S. The purpose of this article V is to exercise the authority of the City and County of Denver to allow state-licensed marijuana establishments to exist in Denver in accordance with applicable state laws and regulations as well as the additional local licensing requirements and other restrictions set forth herein. This Article is adopted pursuant to the aforesaid constitutional and statutory authority, as well as the city's plenary authority as a home rule city and county to adopt and enforce ordinances under its police power in order to preserve the public health, safety, and general welfare.

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

(1) *Alcohol or drug treatment facility* means any facility located within a medical office or hospital, as these terms are defined by the zoning code, with the primary purpose of counseling or providing medical services to patients who suffer from addictions to alcohol or drugs.

(2) *Child care establishment* means any child care establishment as defined by and regulated under chapter 11 of the City Code.

(3) *Colorado Retail Marijuana Code* means Article 43.4 of Title 12 of the Colorado Revised Statutes, as amended.

(3) *Department* means the Denver department of excise and licenses.

(4) *Director* means the director of the Denver department of excise and licenses.

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

Sec. 6-202. Effective date; applicability

(a) This article shall be effective October 1, 2013, and shall govern all applications submitted to the state licensing authority for licensing of any retail marijuana establishment in the city under the Colorado Retail Marijuana Code on and after that date.

(b) Except as otherwise specifically provided herein, this article shall not affect or apply to any business licensed under the Colorado Medical Marijuana Code, article 43.3 of title 12, C.R.S. and the Denver Medical Marijuana Code, article XII of chapter 24, D.R.M.C.

Sec. 6-203. Transition provision.

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

(1) The applicant for licensing of a retail marijuana establishment is currently operating in good standing a licensed medical marijuana center, a medical marijuana optional premises cultivation operation, or a medical marijuana-infused products manufacturing operation, is currently licensed under both the Colorado Medical Marijuana Code and the Denver Medical Marijuana Code, and the applicant proposes to surrender the existing medical marijuana license upon receipt of a retail marijuana license, thereby entirely converting an existing medical marijuana establishment into a retail marijuana establishment; or

(2) The applicant for licensing is currently operating in good standing a licensed medical marijuana center, a medical marijuana optional premises cultivation operation, or a medical marijuana-infused products manufacturing operation, is currently licensed under both the Colorado Medical Marijuana Code and the Denver Medical Marijuana Code, and the applicant proposes to retain the existing medical marijuana license while locating a retail marijuana establishment under common ownership at the same location to the extent allowed by the Colorado Retail Marijuana Code and applicable state rules and regulations.

(b) Prior to January 1, 2016, any person who obtains a transfer of ownership of an existing medical marijuana business that is duly licensed under both the Colorado Medical Marijuana Code and the Denver Medical Marijuana Code may qualify for licensing in the city as allowed by subsection (a) of this section.

(c) Prior to January 1, 2016, any person who obtains a change of location of an existing medical marijuana business that is duly licensed under both the Colorado Medical Marijuana Code and the Denver Medical Marijuana Code may qualify for licensing in the new location as allowed by subsection (a) of this section.

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

Sec. 6-204. Local licensing authority.

(a) The director of the Denver department of excise and licenses is hereby designated to act as the local licensing authority for the city within the meaning of the Colorado Retail Marijuana Code. Under any and all circumstances in which state law requires communication to the city

by the state licensing authority or any other state agency in regard to the licensing of retail marijuana establishments by the state, or in which state law requires any review or approval by the city of any action taken by the state licensing authority, the exclusive authority for receiving such communications and granting such approvals shall be exercised by the director.

(b) The director is authorized to appoint one (1) or more hearing officers to conduct such hearings as may be required by this article V, to consult with the director with respect thereto, and to certify the record or a summary thereof as required by the director along with the hearing officer's recommended findings, conclusions and decision. Any party to such hearing shall have an opportunity to file with the director written objections to any such summary, and to the recommended findings, conclusions and decision of the hearing officer, prior to the director's decision thereon.

(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:

(1) If the state has failed to adopt regulations for retail marijuana by July 1, 2013 in accordance with paragraph 16(5)(a) of article XVIII of the Colorado Constitution;

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

(3) If the state fails to act within ninety (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

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

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

Except as otherwise specifically provided herein, this article V incorporates the requirements and procedures set forth in the Colorado Retail Marijuana Code. In the event of any

1 conflict between the provisions of this article V and the provisions of the Colorado Retail
2 Marijuana Code or any other applicable state or local law, the more restrictive provision shall
3 control.

4
5 **Sec. 6-206. Unlawful Acts.**

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

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

12 (c) It shall be unlawful for any person to engage in any form of business or commerce
13 involving the cultivation, processing, manufacturing, storage, sale, distribution or
14 consumption of marijuana other than those forms of businesses and commerce that are
15 expressly contemplated by section 16 of article XVIII of the Colorado Constitution, the
16 Colorado Retail Marijuana Code, or the Colorado Medical Marijuana Code.

17 **Sec. 6-207. Classes of licensing authorized.**

18 For the purpose of regulating the cultivation, manufacture, testing, distribution, offering for
19 sale, and sale of retail marijuana, the director in the director's discretion, upon application in the
20 prescribed form made to the director, may issue and grant to the applicant a local license from
21 any of the following classes, and the city hereby authorizes issuance of the licenses of the
22 following classes by the state licensing authority in locations in the city, subject to the provisions
23 and restrictions provided in this article V:

24 (1) Retail marijuana store.

25 (2) Retail marijuana cultivation facility.

26 (3) Retail marijuana products manufacturer.

27 (4) Retail marijuana testing facility.

28
29 **Sec. 6-209. Screening and response to state license applications.**

30 (a) Upon receipt of notice from the state licensing authority of any application for a license under
31 the Colorado Retail Marijuana Code, the director shall:

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

14 (2) For any application that is not disapproved as provided in paragraph (1) of this
15 subsection (a), the director shall notify the state licensing authority in writing that the
16 city's further consideration of the application is subject to a local licensing process,
17 and that the city's ultimate decision to approve or disapprove the issuance of the
18 state license in Denver is subject to the completion of the local licensing process as
19 set forth in this article V, after which the city will notify the state licensing authority in
20 writing of whether or not the retail marijuana establishment proposed in the
21 application has or has not been approved by the city.

22
23 **Sec. 6-210. Licensing requirements—Provisions applicable to all licenses.**

24 (a) *Criteria for licensing.* The director shall consider and act upon all local license applications in
25 accordance with the standards and procedures set forth in this article V. The director shall
26 deny any application for a license that is not in full compliance with the Colorado Retail
27 Marijuana Code, this article V, and any other applicable state or city law or regulation. The
28 director shall also deny any application that contains any false or incomplete information.
29

30 (b) *Application forms and supplemental materials.* All applications for local licensing shall be
31 made upon forms provided by the director and shall include such supplemental materials as
32 required by the Colorado Retail Marijuana Code and rules adopted pursuant thereto,
33 including by way of example: proof of possession of the licensed premises, disclosures
34 related to ownership of the proposed business, fingerprints of the applicants, building plans,
35 and security plans. To the extent any of the foregoing supplemental materials have been
36 included with the applicant's state license application and forwarded to the city by the state

1 licensing authority, the director may rely upon the information forwarded from the state
2 without requiring re-submittal of the same materials in conjunction with the local license
3 application. The director may, at the director's discretion, require additional documentation
4 associated with the application as may be necessary to enforce the requirements of the
5 Colorado Retail Marijuana Code and this article V.
6

7 (c) *Notice of applications to departments and agencies.* Upon receipt of an application for any
8 class of local license, the director shall give notice of the application to the department of
9 community planning and development, the department of finance, the department of
10 environmental health, the Denver Police Department, and the Denver Fire Department. Any
11 applicant for a license under this article V shall obtain any and all necessary permits, licenses
12 and other regulatory approvals from the other affected city departments and agencies prior to
13 the issuance of a license under this article V.
14

15 (d) *Background checks and determination of good character.* Prior to the issuance of any local
16 license, the director shall make a finding and determination as to the good moral character of
17 the applicant in accordance with the standards and procedures set forth in the Colorado
18 Retail Marijuana Code. In so doing, the director may incorporate any findings as to good
19 character previously made by the state licensing authority, and shall not be required to
20 perform a criminal background check if the state licensing authority has already performed a
21 criminal background check on the applicant.
22

23 **Sec. 6-211. Licensing requirements—Retail Marijuana Stores.**

24 The following requirements shall apply to the issuance of any local license for a retail
25 marijuana store:

26 (a) *Tax bond.* Before the director issues a local license to an applicant for a retail
27 marijuana store, the applicant shall procure and file with the city evidence of good and
28 sufficient bond in the amount of five thousand dollars (\$5,000.00) with corporate surety
29 thereon duly licensed to do business with the State of Colorado, approved as to form by
30 the city attorney, and conditioned that the applicant shall report and pay all city sales and
31 use taxes as provided by law. A corporate surety shall not be required to make payments
32 to the city claiming under such bond until a final determination of failure to pay taxes due
33 to the city has been made by the manager of finance or a court of competent jurisdiction.
34 All bonds required pursuant to this subsection shall be renewed at such times as the
35 bondholder's license is renewed. The renewal may be accomplished through a
36 continuation certificate issued by the surety.
37

1 (b) *Area maps.* All applications for retail marijuana store licensing submitted pursuant to
2 this article V shall include an area map drawn to scale indicating land uses of other
3 properties within a 1,000-foot radius of the property upon which the applicant is seeking a
4 license. The map shall depict the proximity to the property to any school or child care
5 establishment; to any other retail marijuana store; to any medical marijuana center, or to
6 any alcohol or drug treatment facility.

7
8 (c) *Prohibited locations.* No retail marijuana store license shall be issued for the following
9 locations:

10
11 (1) In any residential zone district as defined by the zoning code of the city, in
12 any MS-2, MS-2x, MX-2, MX-2A or MX-2x zone district as defined by the zoning
13 code of the city, or in any location where retail sales are prohibited by the zoning
14 code or by any ordinance governing a planned unit development. The restriction
15 against licensing a retail marijuana store in any MS-2, MS-2x, MX-2, MX-2A or
16 MX-2x zone district shall not apply to any location where the director previously
17 issued a medical marijuana center license under article XII of chapter 24 and a
18 licensed medical marijuana center has existed in continuous operations at the
19 subject location since the time of original licensing.

20
21 (2) Within one thousand (1,000) feet of any school or child care establishment,
22 with the distance computed by direct measurement from the nearest property line
23 of the land used for school or child care purposes to the nearest portion of the
24 building in which the retail marijuana store is located, using a route of direct
25 pedestrian access.

26
27 (3) Within one thousand (1,000) feet of any other retail marijuana store or
28 medical marijuana center licensed under article XII of chapter 24, with the
29 distance computed by direct measurement from the nearest portion of the
30 building in which one store or center is located to the nearest portion of the
31 building in which the other store or center is located, using a route of direct
32 pedestrian access. This restriction shall not apply to any location proposed for
33 licensing as a retail marijuana store where the director previously issued a
34 medical marijuana center license under article XII of chapter 24 and a licensed
35 medical marijuana center has existed in continuous operations at the subject
36 location since the time of original licensing, nor shall this restriction be construed
37 to prohibit the licensing of a retail marijuana store under common ownership with
38 and at the same location as a licensed medical marijuana center, to the extent
39 permitted by the Colorado Retail Marijuana Code and any rules and regulations
40 adopted pursuant thereto.
41

1 (4) Within one thousand (1,000) feet of any alcohol or drug treatment facility.
2 The 1,000-foot distance shall be computed by direct measurement from the
3 nearest property line of the land used for alcohol or drug treatment facility
4 purposes to the nearest portion of the property upon which the retail marijuana
5 store is proposed to be located, using a route of direct pedestrian access. This
6 restriction shall not apply to any location where the director previously issued a
7 medical marijuana center license under article XII of chapter 24, and a licensed
8 medical marijuana center has existed in continuous operations at the subject
9 location since the time of original licensing.
10

11 (d) *Off-site delivery of product by licensee prohibited.* All sales and distribution of retail
12 marijuana by a licensed retail marijuana store shall occur only upon the licensed
13 premises, and the licensee shall be strictly prohibited from delivering retail marijuana to
14 any person at any other location.
15

16 (e) *Signs and advertising.*
17

18 (1) Any person or premises licensed as a retail marijuana store shall comply with
19 all city ordinances regulating signs and advertising. In addition, no licensed
20 retail marijuana store shall use any advertising material that is misleading,
21 deceptive, or false, or that, as evidenced either by the content of the
22 advertising material or by the medium or the manner in which the advertising
23 is disseminated, is designed to appeal to minors.
24

25 (2) Except as otherwise provided in this subsection (2), it shall be unlawful for
26 any person licensed under this article or any other person to advertise any
27 retail marijuana or retail marijuana product anywhere in the city where the
28 advertisement is visible to members of the public from any street, sidewalk,
29 park or other public place, including advertising utilizing any of the following
30 media: any billboard or other outdoor general advertising device as defined
31 by the zoning code; any sign mounted on a vehicle, any hand-held or other
32 portable sign; or any handbill, leaflet or flier directly handed to any person in
33 a public place, left upon a motor vehicle, or posted upon any public or private
34 property without the consent of the property owner. The prohibition set forth
35 in this paragraph (3) shall not apply to:
36

37 (i) Any sign located on the same zone lot as a retail marijuana store
38 which exists solely for the purpose of identifying the location of the retail
9 marijuana store and which otherwise complies with the Denver Zoning
40 Code and any other applicable city laws and regulations; or

- (ii) Any advertisement contained within a newspaper, magazine, or other periodical of general circulation within the city; or
- (iii) Advertising which is purely incidental to sponsorship of a charitable event by a retail marijuana store or a retail marijuana products manufacturer.

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

Sec. 6-212. Licensing requirements—Retail Marijuana Stores—Public hearing requirement.
[PLACE HOLDER LANGUAGE PARAPHRASED FROM THE COLORADO LIQUOR CODE]

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

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

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

(d) If the building in which retail marijuana is to be sold is in existence at the time of the application, any sign posted as required in subsections (1) and (2) of this section shall be placed so as to be conspicuous and plainly visible to the general public. If the building is not constructed at the time of the application, the applicant shall post the

premises upon which the building is to be constructed in such a manner that the notice shall be conspicuous and plainly visible to the general public.

(e)(1) At the public hearing held pursuant to this section, any party in interest shall be allowed to present evidence and to cross-examine witnesses.

(2) As used in this subsection (e), "party in interest" means any of the following:

a. The applicant;

b. An adult resident of the neighborhood under consideration;

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

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

(4) Nothing in this subsection (e) shall be construed to prevent a representative of an organized neighborhood group that encompasses part or all of the neighborhood under consideration from presenting evidence subject to this section. Such representative shall reside within the neighborhood group's geographic boundaries and shall be a member of the neighborhood group. Such representative shall not be entitled to cross-examine witnesses or seek judicial review of the licensing authority's decision.

(f) Not less than five days prior to the date of hearing, the director shall make known the director's findings based on the director's investigation in writing to the applicant and other interested parties. The director has authority to refuse to issue any retail marijuana store license for good cause, subject to judicial review. For purposes of this subsection (f), the term "good cause" means:

(1) The applicant has violated, does not meet, or has failed to comply with any of the terms, conditions, or provisions of the Colorado Retail Marijuana Code or any rule and regulations promulgated pursuant thereto, or this article V or any rules and regulations promulgated pursuant to this article;

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

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

13
14 (g) Before entering any decision approving or denying the application, the
15 director shall consider, except where this article specifically provides otherwise, the facts
16 and evidence adduced as a result of its investigation, as well as any other facts, the
17 number, type, and availability of retail marijuana stores located in or near the
18 neighborhood under consideration, and any other pertinent matters affecting the
19 qualifications of the applicant for the conduct of the type of business proposed.

20
21 (h) Any decision of the director approving or denying an application shall be in
22 writing stating the reasons therefor, within thirty days after the date of the public hearing,
23 and a copy of such decision shall be sent by certified mail to the applicant at the address
24 shown in the application and to the state licensing authority.
25

26 **Sec. 6-613. - Licensing requirements—Retail marijuana products manufacturer.**

27 In addition to the requirements set forth in the Colorado Retail Marijuana Code and any
28 rules or regulations adopted pursuant thereto, the following requirements shall apply to the
29 issuance of any local license for medical marijuana-infused products manufacturing:

30 (a) *Compliance with zoning; grandfathering of existing locations.* A local license for a
31 retail marijuana products manufacturer may be issued for any zone lot where "food
32 preparation and sales" or "manufacturing, fabrication and assembly, general" is permitted
33 by the Denver Zoning Code. Any zone lot where any person qualified as a "locally
34 approved" medical marijuana-infused product manufacturer as of July 1, 2010, in
35 accordance with subsection 24-411(c) of this code and the Colorado Medical Marijuana
36 Code may also qualify for licensing under this section provided such manufacturing is
37 considered a compliant or nonconforming use in that location under the zoning code.

(b) *Sanitation, product labeling, and public health standards.* Sanitary standards for retail marijuana products manufacturing shall be as provided by the Colorado Retail Marijuana Code and any other applicable state laws and regulations. Any and all retail marijuana products packaged by a licensed retail marijuana products manufacturer shall be labeled in accordance with state law.

Sec. 6-614. Licensing requirements—Retail marijuana cultivation facility

In addition to the requirements set forth in the Colorado Retail Marijuana Code and any rules or regulations adopted pursuant thereto, the following requirements shall apply to the issuance of any local license for a retail marijuana cultivation license:

(a) *Compliance with current zoning.*

(1) A local retail marijuana cultivation facility license may be issued in any zone district where, at the time of application for the license, plant husbandry is authorized as a permitted use under the zoning code.

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

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

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

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

(3) Any retail marijuana cultivation license granted pursuant to subsection (a)(2) of this section upon a zone lot where plant husbandry is not a permitted use under the zoning code shall be subject to a public hearing prior to any renewal of the license. The director shall assign a hearing officer to conduct the public hearing. The hearing shall not be conducted until the director has posted or caused to be posted a notice of hearing on the licensed premises for a period of ten (10) days, and provided notice to each of the following at least ten (10) days prior to the hearing: the licensee; the city council representative for the district in which the licensed premises is located; and any registered neighborhood association entitled to receive notice as provided in section 12-96. At the public hearing, the incumbent licensee and any other interested party shall be entitled to speak and present evidence supporting or opposing renewal of the license in the location where plant husbandry is not a permitted use. The hearing officer shall receive and give due consideration to any evidence or testimony submitted by the city council member representing the district in which the licensed premises are located, either in support or opposition to the renewal of the license. The retail marijuana cultivation license shall be eligible for renewal in its current compliant or nonconforming location unless it is shown by a preponderance of the evidence presented at the hearing that:

a. The existence of the retail marijuana cultivation facility on the licensed premises has frustrated the implementation of the city's comprehensive plan and any adopted neighborhood plan applicable to the subject property;

b. The existence of the retail marijuana cultivation facility on the licensed premises has negatively affected nearby properties or the neighborhood in general, including by way of example any adverse effects caused by excessive noise, odors, vehicular traffic, or any negative effects on nearby property values;

c. The existence of the retail marijuana cultivation facility has caused crime rates to increase in the surrounding neighborhood; or

d. The continued existence of a licensed retail marijuana cultivation facility in the subject location will have a deleterious impact on public health, safety and the general welfare of the neighborhood or the city.

[ADD PROVISION FOR LICENSING OF RETAIL MARIJUANA TESTING FACILITIES.]

Sec. 6-615. 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.

(b) *Retail marijuana store licenses.* Any transfer of ownership of a retail marijuana store license shall not affect any exemption that the licensed premises may enjoy from the spacing or other location restrictions set forth in subsection 6-211 (c).

(c) *Retail marijuana products manufacturer license.* Any transfer of ownership of a retail marijuana products manufacturer license shall not affect the ability of the new owner to continue to operate under the transferred license in a compliant or nonconforming location as allowed by subsection 6-613 (a).

(d) *Retail marijuana cultivation licenses.* Any retail marijuana cultivation license issued pursuant to subsection 6-614 (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, bankruptcy, court order, or any force majeure that may prevent the incumbent licensee from continuing to operate in the subject location;

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

(4) In circumstances where the retail marijuana cultivation license is located at the same location and under common ownership with an optional premises medical marijuana cultivation license, the transfer of ownership is required because a medical marijuana center or a medical marijuana-infused products manufacturing license with which the optional premises cultivation license is associated is being transferred to a new owner.

Sec. 6-616. Change of location; modification of premises.

Change of location of any license or any modification of the licensed premises shall be governed by the standards and procedures set forth in the Colorado Retail Marijuana Code and any

1 regulations adopted pursuant thereto, and the director shall administer applications to change
2 location or modify premises in the same manner as the state licensing authority administers
3 changes of location and modification of premises for state licenses. Any proposed modification
4 and any new location to which an existing licensed business is transferred shall fully comply with
5 the spacing requirements and the requirements for conformance with current zoning as set forth
6 this article V.

7
8 **Sec. 6-617. Term of licenses; renewals.**

9 Any local license issued pursuant to this article V shall be valid for a period of one year
10 from the date of issuance. Any renewal of the license shall be governed by the standards and
11 procedures set forth in the Colorado Retail Marijuana Code and any regulations adopted pursuant
12 thereto, subject to any additional restrictions on renewal for certain classes of licenses in certain
13 locations as provided in this article V.

14
15 **Sec. 6-618. - Disciplinary actions; sanctions; penalties.**

16
17 **[ADD PROVISION FOR CIVIL PENALTIES AND OTHER LICENSING SANCTIONS.]**

18 **[ADD FEE PROVISION: \$5000 ANNUAL OPERATING FEE FOR ALL CLASSES OF LICENSES]**

19
20 **[ADD CONFORMING AMENDMENTS TO RMO NOTIFICATION ORDINANCE, SEC. 12-96 D.R.M.C.,**
21 **AND DETERMINE IF RMO NOTIFICATION WILL APPLY TO CLASSES OF LICENSES OTHER THAN**
22 **RETAIL MARIJUANA STORE LICENSES.]**

23
24
25 Section 3. Amend subsection 24-503 (a), D.R.M.C. concerning the authority of
26 certain pre-existing medical marijuana businesses to continue in operation pending final
27 action on state and local licensing, by the addition of a new paragraph (3), to read as
28 follows:

29 **Sec. 24-503. - Effective date; applicability.**

30 (a) *Effective date.* On and after July 1, 2011, it shall be unlawful to operate any business
31 in Denver for which a license is required under the CMMC without first having obtained a
32 local license under this article XII and a state license under the state code; provided,
33 however that certain pre-existing medical marijuana businesses that have submitted
34 applications for licensing under the CMMC may continue in operation on and after July 1,
35 2011 until final action on the business's state and local license applications under the
36 CMMC, subject to the following requirements:

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

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

7 b. Applied for a license for the same business as a medical marijuana center with the
8 state licensing authority by August 1, 2010, under the requirements of section 12-43.3-
9 103 of the Colorado Medical Marijuana Code; and

10 c. Has not had the application for a medical marijuana center denied by either the state
11 or local licensing authority.
12

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

16 a. Met the requirements for a locally approved medical marijuana business as of July 1,
17 2010, as set forth in section 24-411 in the same location or in any other location in
18 Denver; and

19 b. Applied for a license for the same business as a medical marijuana infused products
20 manufacturing or optional premises cultivation with the state licensing authority by August
21 1, 2010 under the requirements of section 12-43.3-103 of the Colorado Medical
22 Marijuana Code; and

23 c. Has not had the application for a medical marijuana infused products manufacturing or
24 optional premises cultivation denied by either the state or local licensing authority.
25

26 (3) Notwithstanding the provisions of paragraphs (2) and (3) of this subsection
27 (a), if the owner of any pre-existing medical marijuana business has not obtained both a
28 state and city license to lawfully continue in operation by July 1, 2014, the business shall
29 cease operation immediately as of that date. On and after July 1, 2014 it shall be
30 unlawful for any person to operate any business involving the cultivation, manufacture or
31 sale of medical marijuana or medical marijuana-infused products without holding a
32 current state and city license.

