

BY AUTHORITY

ORDINANCE NO. _____
SERIES OF 2016

COUNCIL BILL NO. CB16-0291
COMMITTEE OF REFERENCE:
Special Issues: Marijuana Moratorium

A BILL

For an ordinance concerning the licensing of marijuana businesses, amending the Denver Retail Marijuana Code, Article V of Chapter 6, D.R.M.C. and the Denver Medical Marijuana Code, Art. XII of Chapter 24, D.R.M.C. by capping the total number of licensed locations where marijuana cultivation and sales may be permitted in the city, adopting new procedures for the issuance of retail marijuana cultivation and sales licenses, prohibiting the issuance of new medical marijuana cultivation and sales licenses, and adopting other related amendments.

WHEREAS, the City and County of Denver has heretofore allowed licensed medical marijuana businesses to operate in the city pursuant to the Colorado Medical Marijuana Code, Article 43.3 of Title 12, C.R.S., notwithstanding the authority set forth in the state code to completely ban such business as provided in section 12-43.3-106, C.R.S.; and

WHEREAS, pursuant to the Colorado Medical Marijuana Code, sec. 12-43.3-301 (2)(b), C.R.S., and pursuant to the city's own home rule authority, the city may impose additional restrictions and requirements on licensing over and above those set forth in the state code; and

WHEREAS, the City Council has determined that it is appropriate to prohibit the issuance of additional licenses for medical marijuana cultivation and sales businesses within the city primarily due to the fact that the number of registered patients who are lawfully authorized to purchase medical marijuana has remained static for several years, both in Denver and statewide; and

WHEREAS, the City and County of Denver has heretofore allowed licensed retail marijuana businesses to operate in the city pursuant to the Colorado Retail Marijuana Code, Article 43.4 of Title 12, C.R.S., notwithstanding the authority set forth in the state law to completely ban such businesses as provided in art. XVIII, sec. 16(5)(f) of the Colorado Constitution; and

WHEREAS, pursuant to the Colorado Retail Marijuana Code, sec. 12-43.4-309, C.R.S., and pursuant to the city's own home rule authority, the city may impose additional restrictions and requirements on licensing over and above those set forth in the state code; and

WHEREAS, Denver has experienced a rapid expansion in the number of licensed marijuana businesses since 2010 and the city has heretofore licensed, by far, the largest number of licensed marijuana businesses in comparison to any other local jurisdiction in the state; and

WHEREAS, the City Council has determined that a cap on further expansion of the total

1 number of licensed locations for marijuana cultivation and sales, a reasonable procedure for
2 allowing new entrants to apply for retail licensing under the cap in the future, and additional
3 restrictions on the location of marijuana cultivation near residential zone districts and schools is
4 necessary in the interest of public health, safety and the general welfare.

5
6 **NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF**
7 **DENVER:**

8
9 **Section 1.** That Section 6-201 D.R.M.C. shall be amended by deleting the language
10 stricken and adding the language underlined, to read as follows:
11

12 **Sec. 6-201. - Defined terms.**

13 The definitions set forth in subsection 16(2) of article XVIII of the Colorado
14 Constitution as well as the Colorado Retail Marijuana Code, § 12-43.4-103, C.R.S.,
15 as amended, and rules adopted pursuant thereto, shall apply equally to this article V.
16 In addition, the following terms shall have the meanings respectively assigned to
17 them:

18 (1) *Alcohol or drug treatment facility* means any facility located within a medical
19 office or hospital, as these terms are defined by the zoning code, with the primary
20 purpose of counseling or providing medical services to patients who suffer from
21 addictions to alcohol or drugs.
22

23 (2) Cap on marijuana cultivation locations means a maximum of three hundred and
24 eleven (311) distinct locations in the city where a medical marijuana optional
25 premises cultivation facility, a retail marijuana cultivation facility, or both may be
26 licensed; or such lesser number as may be determined by the director pursuant
27 to section 6-203 (b) by calculating the total number of locations in the city:
28

29 (a) Where one or more licensed premises existed pursuant to a medical marijuana
30 optional premises license, a retail marijuana cultivation facility license, or both, as
31 of May 1, 2016, and
32

33 (b) Where any licensed premises was approved by the director after May 1, 2016 as
34 the result of an application for new licensing that was pending on May 1, 2016 for
35 a medical marijuana optional premises cultivation license, a retail marijuana
36 cultivation license, or both, in a location where such licenses did not previously
37 exist.
38

39
40 (3) Cap on marijuana sales locations means a maximum of two hundred and twenty-
41 six (226) distinct locations in the city where a medical marijuana center, a retail

1 marijuana store, or both may be licensed; or such lesser number as may be
2 determined by the director pursuant to section 6-203 (b) by calculating the total
3 number of locations in the city:

4
5 (a) Where a licensed premises existed for a medical marijuana center, a retail
6 marijuana store, or both, as of May 1, 2016; and

7
8 (b) Where any licensed premises was approved by the director after May 1, 2016 as
9 the result of an application for new licensing that was pending on May 1, 2016 for
10 a medical marijuana center, a retail marijuana store, or both, in a location where
11 such licenses did not previously exist.

12
13
14 ~~(2)~~ (4) *Child care establishment* means any child care establishment as defined by
15 and regulated under [chapter 11](#) of the City Code.

16
17 ~~(3)~~ (5) *Colorado Retail Marijuana Code* or *CRMC* means Article 43.4 of Title 12 of the
18 Colorado Revised Statutes, as amended.

19
20 (6) *Cumulative cap on marijuana cultivation and sales locations* means a maximum
21 of four hundred and sixty-seven (467) distinct locations in the city where one or any
22 combination of the following may be licensed in the same location: medical
23 marijuana center, retail marijuana store, medical marijuana optional premises
24 cultivation facility, retail marijuana cultivation facility; or such lesser number as may
25 be determined by the director pursuant to section 6-203 (b) by calculating the total
26 number of locations in the city:

27
28 (a) Where a licensed premises existed for a medical marijuana center, retail
29 marijuana store, medical marijuana optional premises cultivation facility, retail
30 marijuana cultivation facility, or any combination of these, as of May 1, 2016; and

31
32 (b) Where any licensed premises was approved by the director after May 1, 2016 as
33 the result of an application for new licensing that was pending on May 1, 2016 for
34 a medical marijuana center, retail marijuana store, medical marijuana optional
35 premises cultivation facility, retail marijuana cultivation facility, or any combination
36 of these, in a location where such licenses did not previously exist.

37
38
39 ~~(4)~~ (7) *Department* means the Denver Department of Excise and Licenses.

40
41 ~~(5)~~ (8) *Director* means the director of the Denver Department of Excise and
42 Licenses.

43
44 (9) *Location* means a particular parcel of land that is identified by a distinct street

1 address assigned by the city in accordance with Article IV of Chapter 49. To the
2 extent the parcel consists of separately described “units,” “suites,” “rooms” or other
3 similar descriptor, the parcel shall nevertheless be counted as one location for the
4 purpose of calculating the cap on marijuana sales locations, the cap on marijuana
5 cultivation locations, and the cumulative cap on marijuana cultivation and sales
6 locations, as provided in section 6-203, and for the purpose of administering the laws
7 related to change of location as provided in sections 6-217 and 24-512.

8
9 ~~(6)~~ (10) *School* means a public or private preschool or a public or private elementary,
10 middle, junior high, or high school.

11
12 (11) *Statistical neighborhood* means the geographical neighborhood boundaries
13 established by the City and County of Denver in 1970 in conjunction with the
14 Community Renewal Program, consisting of combinations of census tracts to which
15 the city has assigned geographic place names corresponding to commonly used
16 names of subdivisions and historical parts of the City

17
18
19 **Section 2.** That Section 6-203, D.R.M.C., shall be repealed and reenacted by
20 deleting the language stricken and adding the language underlined to read as follows:

21
22 **~~Sec. 6-203. – Transition provision.~~**

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

26
27 ~~(1) The applicant for licensing of a retail marijuana establishment was, as of October~~
28 ~~1, 2013, operating in good standing a medical marijuana center, a medical marijuana~~
29 ~~optional premises cultivation operation, or a medical marijuana-infused products~~
30 ~~manufacturing operation; the applicant is, as of the time of application for a local~~
31 ~~license under this article V, currently licensed under both the Colorado Medical~~
32 ~~Marijuana Code and the Denver Medical Marijuana Code; and the applicant~~
33 ~~proposes to surrender the existing medical marijuana licenses upon receipt of a retail~~
34 ~~marijuana license, thereby entirely converting an existing medical marijuana~~
35 ~~establishment into a retail marijuana establishment; or~~

36
37 ~~(2) The applicant for licensing of a retail marijuana establishment was, as of October~~
38 ~~1, 2013, operating in good standing a medical marijuana center, a medical marijuana~~
39 ~~optional premises cultivation operation, or a medical marijuana-infused products~~
40 ~~manufacturing operation; the applicant is, as of the time of application for a local~~
41 ~~license under this article V, currently licensed under both the Colorado Medical~~
42 ~~Marijuana Code and the Denver Medical Marijuana Code; and the applicant~~
43 ~~proposes to retain the existing medical marijuana license while locating a retail~~
44 ~~marijuana establishment under common ownership at the same location to the extent~~
45 ~~allowed by the Colorado Retail Marijuana Code and applicable state rules and~~
46 ~~regulations.~~

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

7
8 ~~(c) Prior to May 1, 2016, any person who obtains a change of location of the state~~
9 ~~and local licenses for a medical marijuana business that was operating in good~~
10 ~~standing as of October 1, 2013 and is duly licensed under both the Colorado Medical~~
11 ~~Marijuana Code and the Denver Medical Marijuana Code may qualify for licensing as~~
12 ~~a retail marijuana establishment in the new location as allowed by subsection (a) of~~
13 ~~this section; provided, however, no change of location of a medical marijuana center~~
14 ~~license with the intent to apply for licensing as a retail marijuana store in the new~~
15 ~~location shall be approved unless and until a public hearing is conducted in~~
16 ~~accordance with [section 6-212](#) and the director has determined that the applicant~~
17 ~~qualifies for licensing of a retail marijuana store in the new location. For any~~
18 ~~application involving transfer of location of an existing medical marijuana center and~~
19 ~~conversion to or co-location of a retail marijuana store at the new location, good~~
20 ~~cause for denial of the retail marijuana store license shall include, in addition to the~~
21 ~~factors set forth in [section 6-212](#), evidence that the medical marijuana center was~~
22 ~~operated in a manner that adversely affected the public health, welfare, or safety of~~
23 ~~the immediate neighborhood in which the center was previously located.~~

24
25 ~~(d) On and after May 1, 2016, unless otherwise provided by law, any person who~~
26 ~~otherwise qualifies for licensing under applicable state and city laws may apply for~~
27 ~~licensing of a retail marijuana establishment in the city, regardless of whether or not~~
28 ~~the applicant is the owner of an existing medical marijuana business in the city.~~

29
30 ~~(e) On and after October 1, 2013, state and local licensing of retail marijuana testing~~
31 ~~facilities shall be permitted in the city, regardless of whether or not a medical~~
32 ~~marijuana testing facility previously existed in the location that is proposed for~~
33 ~~licensing.~~

34
35
36 **Sec. 6-203. City-wide cap on certain retail marijuana licenses; annual open**
37 **application process.**

38
39 (a) Effective May 1, 2016, the issuance of any new retail marijuana store license or any new
40 retail marijuana cultivation facility license in the city shall be subject to the cap on
41 marijuana sales locations and the cap on marijuana cultivation locations respectively, as
42 well as the cumulative cap on marijuana cultivation and sales locations, to be
43 administered by the director in accordance with this section.

44
45 (b) The director shall calculate and publish the cap on marijuana sales locations, the cap on
46 marijuana cultivation locations, and the cumulative cap on marijuana cultivation and
47 sales locations as soon as possible after a determination is made by the director on all
48 applications for new licenses that were pending on May 1, 2016. The director's
49 calculation of the caps shall be considered dispositive and shall not be subject to appeal.

1
2 (c) Beginning in 2017 and continuing once in each calendar year thereafter, the director
3 shall administer an open application process for new retail store licenses and new retail
4 marijuana cultivation facility licenses, to the extent the total number of then-current
5 licensed locations in either category in the city falls below the cap on marijuana sales
6 locations and the cap on marijuana cultivation locations respectively, and only if the
7 cumulative number of then-current licensed locations for any combination of marijuana
8 cultivation or sales licenses falls below the cumulative cap on marijuana cultivation and
9 sales locations. The annual open application process shall be subject to the following
10 requirements:

11
12 (1) In advance of the open application process, the director shall determine and publish
13 the total number of available locations in the city for retail marijuana stores and retail
14 marijuana cultivation facilities under the respective caps. The director's
15 determination of the number of available locations shall be considered dispositive
16 and not be subject to appeal. To the extent the director determines any capacity for
17 licensing of up to thirty (30) available locations falling below the cap on marijuana
18 cultivation locations, the director is authorized to issue new cultivation licenses in
19 accordance with the procedures set forth in this section in a number not to exceed
20 one-half of the number of cultivation locations falling below the cap, which shall be
21 deemed the "number of available locations" for cultivation licensing as that term is
22 used in this section. To the extent the director determines capacity for licensing in
23 excess of thirty (30) available locations falling below the cap on marijuana cultivation
24 locations, the director is authorized to issue new cultivation license in a number equal
25 to the number of available locations in excess of thirty (30) falling below the cap.

26
27 (2) Eligibility for licensing under the annual open application process shall be determined
28 by a blind lottery. Prior to the blind lottery, the director shall prequalify persons
29 wishing to enter the lottery in accordance with the following requirements:

- 30
31 a. The entrant shall submit proof of prior approval by the state licensing authority for
32 the retail marijuana establishment in question, to the extent required by state law.
33
34 b. The entrant shall submit a complete application for local licensing in accordance
35 with the requirements of this article V along with all applicable fees, which shall be
36 subject to refund if the entrant is not selected in the blind lottery.
37
38 c. The entrant shall submit proof that the entrant has or will have lawful possession
39 of the premises proposed for the marijuana establishment, which proof may
40 consist of: a deed, a lease, a real estate contract contingent upon successful
41 licensing, or a letter of intent by the owner of the premises indicating an intent to
42 lease the premises to the entrant contingent upon successful licensing.
43
44 d. The location proposed for licensing by the entrant shall comply with all applicable
45 city zoning laws and the location restrictions set forth in this article V.
46
47 e. The entrant shall submit, to the satisfaction of the director, proof of financial
48 capability to open and operate the retail marijuana establishment for which the
49 entrant is seeking to apply. Standards for proof of financial capability shall be
50 determined by the director and adopted by rule or regulation.

- 1
- 2 f. In addition to complying with any other state or city requirement related to good
- 3 character and criminal background, any person proposed to have an ownership
- 4 interest in the license shall not have committed in the preceding year any
- 5 marijuana licensing violation affecting public safety, as defined in the rules and
- 6 regulations of the state licensing authority, or received any suspension or
- 7 revocation of any other state or local marijuana business license in the preceding
- 8 year.
- 9
- 10 g. The entrant and the application otherwise complies with any and all qualification
- 11 standards set forth in state and city laws or regulations.
- 12

13 (3) A separate lottery drawing shall occur for entrants seeking to apply for retail

14 marijuana store licenses and retail marijuana cultivation facility licenses. The director

15 shall conduct the lottery drawings in a public setting, with all entrants in the lottery

16 advised of the date and time of the lottery in advance and afforded the opportunity to

17 attend and witness the drawing. The names of all entrants in each lottery shall be

18 drawn and assigned a number in the order they are drawn from first to last. The

19 entrants who are first drawn in a number equal to the number of available locations

20 under the cap on marijuana sales locations or the cap on marijuana cultivation

21 locations shall be afforded first opportunity to proceed with the licensing process. If

22 any of these entrants fail to pursue licensing, or if the director denies the entrant's

23 application, then other entrants in the lottery, based on the order in which their name

24 was selected, will be afforded the opportunity to proceed with the licensing process.

25 In no event shall an entrant or applicant be allowed to transfer the application to any

26 other person during the annual open application process.

27

28 (4) Selection of an entrant in the lottery shall not be construed to create any right or

29 entitlement to ultimate license approval by the city, and entrants selected in the

30 lottery shall remain subject to all other requirements of this article V before a license

31 may be approved including, by way of example, the public hearing requirements set

32 forth in section 6-212 for retail marijuana stores.

33

34 (5) The director may adopt additional rules and regulations governing the annual open

35 application process.

36

37 (6) Prior to the first annual open application process administered by the director

38 under this section, the director shall determine the number of licensed

39 locations where medical marijuana centers, retail marijuana stores, or both,

40 exist in each statistical neighborhood of the city. Likewise, the director shall

41 determine the number of licensed locations where medical marijuana optional

42 premises cultivation facilities, retail marijuana cultivation facilities, or both,

43 exist in each statistical neighborhood of the city. The director shall then

44 identify the five statistical neighborhoods where the highest number of

45 licensed marijuana sales locations exist, and the five statistical neighborhoods

46 where the highest number of licensed marijuana cultivation locations exist.

47 The statistical neighborhoods thus identified by the director shall be

48 considered neighborhoods of undue concentration of marijuana business

49 licensing, and shall be prohibited from further licensing as a part of the annual

1 open application process for the year in question. To the extent there is a tie
2 in the number of licensed locations among two or more statistical
3 neighborhoods with the fifth most licensed locations, then all such
4 neighborhoods shall be treated as neighborhoods of undue licensing and shall
5 be prohibited from further licensing as part of the annual open application
6 process. Entry into the lottery for a retail marijuana store license shall be
7 denied for any applicant proposing to locate a retail marijuana store in any
8 statistical neighborhood determined by the director to be a neighborhood of
9 undue concentration based upon the current number of locations of medical
10 marijuana centers, retail marijuana stores, or both, in the statistical
11 neighborhood. Entry into the lottery for a retail marijuana cultivation facility
12 license shall be denied for any applicant proposing to locate a retail marijuana
13 cultivation facility in any statistical neighborhood determined by the director to
14 be a neighborhood of undue concentration based upon the current number of
15 locations of medical marijuana optional premises cultivation facilities, retail
16 marijuana stores, or both, in the statistical neighborhood. Upon the completion
17 of the first annual open application process, the director shall report to the
18 council regarding the implementation of this subsection, along with a
19 recommendation about whether or not to continue to restrict licensing in
20 identified statistical neighborhoods in future open application processes.
21

22
23 **Section 3.** That Section 6-209, D.R.M.C. shall be amended by deleting the language
24 stricken and adding the language underlined, to read as follows:
25

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

27 (a) Upon receipt of notice from the state licensing authority of any application for a
28 license under the Colorado Retail Marijuana Code, the director shall:
29

30 ~~(1) For all applications received prior to May 1, 2016, determine whether the~~
31 ~~applicant qualifies for licensing as an existing medical marijuana business in the city,~~
32 ~~to the extent allowed by [section 6-203](#). If the director makes an initial determination~~
33 ~~that the applicant does not qualify for licensing prior to May 1, 2016, the director~~
34 ~~shall, no later than forty five (45) days from the date the application was originally~~
35 ~~received by the state licensing authority, notify the state licensing authority and the~~
36 ~~applicant for state licensing in writing that the application is disapproved by the city.~~
37 ~~The failure of the director to make such a determination upon the initial review of a~~
38 ~~state license application shall not preclude the director from later determining that the~~
39 ~~applicant does not qualify for licensing prior to May, 2016 as provided in [section 6-](#)~~
40 ~~[203](#), and disapprove the issuance of a state or city license on this basis.~~
41

42 ~~(2)~~ (1) Determine, in consultation with the manager of the department of community
43 planning and development, whether or not the location proposed for licensing
44 complies with any and all zoning and land use laws of the city, and any and all
45 restrictions on location of retail marijuana establishments set forth in this article V. If
46 the director makes an initial determination that the proposed license would be in
47 violation of any zoning law or other restriction on location set forth in city laws, the

1 director shall, no later than forty-five (45) days from the date the application was
2 originally received by the state licensing authority, notify the state licensing authority
3 and the applicant for state licensing in writing that the application is disapproved by
4 the city. The failure of the director to make such a determination upon the initial
5 review of a state license application shall not preclude the director from later
6 determining that the proposed license is in violation of city zoning laws or any other
7 restriction on location set forth in city laws, and disapprove the issuance of a state or
8 city license on this basis.

9
10 ~~(3)~~ (2) For any application that is not disapproved as provided in paragraphs (1) or
11 ~~(2)~~ of this subsection (a), the director shall notify the state licensing authority and the
12 applicant for state licensing in writing that the city's further consideration of the
13 application is subject to a local licensing process, and that the city's ultimate decision
14 to approve or disapprove the issuance of the state license in Denver is subject to the
15 completion of the local licensing process as set forth in this article V, after which the
16 city will notify the state licensing authority in writing of whether or not the retail
17 marijuana establishment proposed in the application has or has not been approved
18 by the city.

19
20
21 **Section 4.** That the introductory sentence of Section 6-211, D.R.M.C. shall be amended by
22 adding the language underlined to read as follows:
23

24 **Sec. 6-211. - Licensing requirements—Retail marijuana stores.**

25 Effective May 1, 2016, the director shall not receive or act upon any application
26 for a retail marijuana store license except through the annual open application
27 process set forth in Section 6-203. The director may, however, receive and act upon
28 an application to co-locate a retail marijuana store with an existing medical marijuana
29 center as provided in subsection (e) of this section. The following requirements shall
30 apply to the issuance of any local license for a retail marijuana store:
31

32
33 **Section 5.** That the introductory sentence to Section 6-214, D.R.M.C. shall be amended by
34 adding the language underlined, and that a new subsection (d) shall be added to the section, to
35 read as follows:
36

37 **Sec. 6-214. - Licensing requirements—Retail marijuana cultivation facility.**
38

39 Effective May 1, 2016, the director shall not receive or act upon any
40 application for a retail marijuana cultivation facility license except through the annual
41 open application process set forth in Section 6-203. The director may, however,
42 receive and act upon an application to co-locate a retail marijuana cultivation facility
43 license with one or more existing medical marijuana optional premises cultivation
44 licenses or retail marijuana cultivation facility license as provided in subsection (b) of
45 this section, subject to the limitations set forth in subsection (c) but regardless of the

1 limitations set forth in subsection (d) of this section. In addition to the requirements
2 set forth in the Colorado Retail Marijuana Code and any rules or regulations adopted
3 pursuant thereto, the following requirements shall apply to the issuance of any local
4 license for a retail marijuana cultivation license:

5 (d) Prohibited locations. Effective May 1, 2016, no retail marijuana cultivation facility
6 license shall be issued for the following locations:

7
8 (1) Within one thousand (1,000) feet of any school, with the distance computed by
9 direct measurement in a straight line from the nearest property line of the land used
10 for school to the nearest portion of the building in which the retail marijuana
11 cultivation facility is located.

12
13 (2) Within one thousand (1,000) feet of any residential district as defined in the Denver
14 Zoning Code or former Chapter 59, with the distance computed by direct
15 measurement in a straight line from the nearest property line of any property in the
16 residential district to the nearest portion of the building in which the retail marijuana
17 cultivation facility is located.

18
19 **Section 6.** That Section 6-217, D.R.M.C., shall be amended by adding a new
20 subsection (d) and (e) as underlined, to read as follows:

21 **Sec. 6-217. - Change of location; modification of premises.**

22 (a) Change of location of any license or any modification of the licensed premises shall
23 be governed by the standards and procedures set forth in the Colorado Retail Marijuana
24 Code, this article V, and any regulations adopted pursuant thereto, and the director shall
25 administer applications to change location or modify premises in the same manner as the
26 state licensing authority administers changes of location and modification of premises for
27 state licenses. Any proposed modification and any new location to which an existing
28 licensed business is transferred shall fully comply with the spacing requirements and the
29 requirements for conformance with current zoning as set forth this article V.

30
31 (b) Upon receipt of an application for change of location of a retail marijuana store, the
32 director shall schedule a public hearing in accordance with the requirements of [section 6-](#)
33 [212](#) and shall issue written findings for the new location.

34
35 (c) Corresponding state license. Upon receipt of any application for change of location,
36 the director shall not issue a license to the proposed new location unless the applicant
37 produces written documentation from the state approving the same change of location of
38 the corresponding state license recorded upon the face of the local license.

39 (d) Effective May 1, 2016, in the case of a retail marijuana store that is co-located
40 with a medical marijuana center or with any retail marijuana cultivation facility or
41 medical marijuana optional premises cultivation business at the same location, a
42 change of location for the retail marijuana store shall not be approved by the director
43 unless:

1 (1) The associated medical marijuana center and any retail marijuana cultivation
2 facility or medical marijuana optional premises cultivation facility at the same location
3 likewise changes to the same new location, or

4 (2) The license for the medical marijuana center or any retail marijuana cultivation
5 facility or medical marijuana optional premises cultivation facility at the former
6 location is surrendered.

7 (e) Effective May 1, 2016, in the case of a retail marijuana cultivation facility that is
8 co-located with any other retail marijuana cultivation facility, any medical marijuana
9 optional premises cultivation business, any retail marijuana store, or any medical
10 marijuana center at the same location, any change in location of the retail marijuana
11 cultivation facility shall not be approved by the director unless:

12
13 (1) All other marijuana cultivation or sales licenses at the prior location likewise
14 change to the same new location; or

15
16 (2) All other marijuana cultivation or sales licenses at the prior location are
17 surrendered; or.

18
19 (3) The retail marijuana cultivation facility is proposed for change to a location
20 where medical marijuana optional premises cultivation licenses or other retail
21 marijuana cultivation facility licenses currently exist at the new location, subject to the
22 limitations set forth in section 6-214 (c).

23
24 **Section 7.** That Section 24-503.5 shall be repealed by deleting the language
25 stricken:

26 **~~Sec. 24-503.5. -- Temporary moratorium.~~**

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

31
32 ~~(1) The moratorium shall be in effect beginning January 1, 2016;~~

33
34 ~~(2) The moratorium shall end on May 1, 2016;~~

35
36 ~~(3) During the period of the moratorium, under no circumstances shall the director~~
37 ~~receive any new application for a medical marijuana establishment described in this~~
38 ~~subsection (a).~~

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

4
5
6 **Section 8.** That Section 24-506, D.R.M.C. shall be amended by adding the language
7 underlined, to read as follows:
8

9 **Sec. 24-506. - Classes of licensing authorized.**

10 For the purpose of regulating the cultivation, manufacture, distribution, offering
11 for sale, and sale of medical marijuana, the director in the director's discretion, upon
12 application in the prescribed form made to the director, may issue and grant to the
13 applicant a local license from any of the following classes, subject to the provisions
14 and restrictions provided in this article XII and the Colorado Medical Marijuana Code:

- 15 (a) Medical marijuana center license; provided, however, that effective May 1, 2016
16 the director shall not receive or act upon any application for a new medical
17 marijuana center license;
18
19 (b) Optional premises cultivation license; provided, however, that effective May 1,
20 2016 the director shall not receive or act upon any application for a new medical
21 marijuana optional premises cultivation license;
22
23 (c) Medical marijuana-infused products manufacturing license;
24
25 (d) Medical marijuana testing facility license.
26
27

28 **Section 9.** That the opening sentence of Section 24-508 shall be amended by
29 adding the language underlined, to read as follows:
30
31

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

33 Effective May 1, 2016, the director shall not receive or act upon any application
34 for a new medical marijuana center license. In addition to the requirements set forth
35 in the CMMC, the following requirements shall apply to the issuance of any local
36 license for a medical marijuana center for which application was made prior to
37 January 1, 2016 and issuance of the license occurred on or after May 1, 2016, and to
38 any licenses for a medical marijuana center issued prior to May 1, 2016:
39
40

41 **Section 10.** That the opening sentence of Section 24-510, D.R.M.C. shall be
42 amended by adding the language underlined, to read as follows:
43

1 **Sec. 24-510. - Licensing requirements—Optional premises cultivation licenses.**
2

3 Effective May 1, 2016, the director shall not receive or act upon any
4 application for a new medical marijuana optional premises cultivation license. In
5 addition to the requirements set forth in the CMMC, the following requirements shall
6 apply to the issuance of any local license for an optional premises cultivation license
7 for which application was made prior to January 1, 2016 and issuance of the license
8 occurred on or after May 1, 2016, and to any licenses for a medical marijuana
9 optional premises cultivation license issued prior to May 1, 2016:

10
11 **Section 11.** That Section 24-512, D.R.M.C. shall be amended by adding a new
12 subsection (d), (e) and (f) as underlined, to read as follows:

13 **Sec. 24-512. - Change of location; modification of premises.**

14 (a) Change of location of any license or any modification of the licensed premises shall
15 be governed by the standards and procedures set forth in the Colorado Medical Marijuana
16 Code, this article XII and any regulations adopted pursuant thereto. Any proposed
17 modification and any new location to which an existing licensed business is transferred shall
18 fully comply with the spacing requirements and the requirements for conformance with
19 current zoning as set forth in sections [24-508](#), [24-509](#), or [24-510](#) of this article XII.

20
21 (b) Upon receipt of an application for change of location of a medical marijuana center,
22 the director shall schedule a public hearing in accordance with the requirements of
23 [section 24-508.5](#) and shall issue written findings for the new location.

24
25 (c) Corresponding state license. Upon receipt of any application for change of location of
26 a local license, the director shall not issue a license to the proposed new location unless
27 the applicant produces written documentation from the state approving the same change
28 of location of the corresponding state license recorded upon the face of the local license.

29 (d) Effective May 1, 2016, in the case of a medical marijuana center that is co-
30 located with a retail marijuana store or with any medical marijuana optional premises
31 cultivation facility or retail marijuana cultivation facility at the same location, a change
32 of location for the medical marijuana center shall not be approved by the director
33 unless:

34 (1) The associated retail marijuana store and any medical marijuana optional
35 premises cultivation facility or retail marijuana cultivation facility at the same location
36 likewise changes to the same new location, or

37 (2) The license for the retail marijuana store and any medical marijuana optional
38 premises cultivation facility or retail marijuana cultivation facility at the prior location is
39 surrendered.

1 (e) Effective May 1, 2016, in the case of a medical marijuana optional premises
2 cultivation license that is co-located with any other optional premises cultivation
3 licenses, any retail marijuana cultivation facility, or both at the same location, any
4 change in location of the medical marijuana optional premises cultivation license
5 shall not be approved by the director unless:

6
7 (1) All other medical marijuana optional premises cultivation licenses, retail
8 marijuana cultivation facility licenses, medical marijuana centers or retail marijuana
9 stores at the prior location likewise change to the same new location; or

10
11 (2) All other medical marijuana optional premises cultivation licenses, retail
12 marijuana cultivation facility licenses, medical marijuana center licenses, or retail
13 marijuana store licenses at the prior location are surrendered; or

14
15 (3) The medical marijuana optional premises cultivation license is proposed for
16 change to a location where other medical marijuana optional premises cultivation
17 licenses, retail marijuana cultivation facility licenses, or both currently exist at the new
18 location.

19
20 (f) Prohibited locations. Effective May 1, 2016, no medical marijuana optional
21 premises cultivation license shall be permitted to change to the following locations:

22
23 (1) Within one thousand (1,000) feet of any school, with the distance computed by
24 direct measurement in a straight line from the nearest property line of the land used for
25 school to the nearest portion of the building in which the retail marijuana cultivation facility
26 is located; or

27
28 (2) Within one thousand (1,000) feet of any residential district as defined in the Denver
29 Zoning Code or former Chapter 59, with the distance computed by direct measurement in
30 a straight line from the nearest property line of any property in the residential district to the
31 nearest portion of the building in which the retail marijuana cultivation facility is located.

32
33 **Section 12.** That section 12-96 (b), D.R.M.C. shall be amended by adding the
34 language underlined, to read as follows:

35
36 **Sec. 12-96. - Notification.**

37
38 (b) The following agencies of the city shall be responsible for the following
39 notification:

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| | |
|---|--|
| Proposed Action | Responsible City Agency for Notification |
| <u>Application for any type of new business license under the Denver Medical Marijuana Code or the Denver Retail Marijuana Code, in any location in an I-A or I-B industrial zone district as defined by the Denver Zoning Code, or any proposal to change the location</u> | <u>Excise and Licenses</u> |

of an existing marijuana business license to a new location in such zone districts

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Section 13. This ordinance shall be effective May 1, 2016. Any and all applications for new licensing or for change of location of an existing license pending on May 1, 2016 shall be regulated and processed in accordance with the laws in effect on the date the application was originally submitted, except as modified by the adoption of Ordinance No. 912, Series of 2015.

COMMITTEE APPROVAL DATE: April 4, 2016.

MAYOR-COUNCIL DATE: N/A

PASSED BY THE COUNCIL _____ 2016

_____ - PRESIDENT

APPROVED: _____ - MAYOR _____ 2016

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

NOTICE PUBLISHED IN THE DAILY JOURNAL _____ 2016; _____ 2016

PREPARED BY: David W. Broadwell, Asst. City Attorney; DATE: April 12, 2016

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

D. Scott Martinez
City Attorney

BY: _____, _____ City Attorney

1 DATE: _____

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Amendment to CB 16-0291 by Councilwoman Ortega

Explanation of amendment: This amendment would amend the bill to clarify that, in addition to new applications, the RNO notification requirement in the revised section 12-96(b) also applies to all applications that were pending on May 1, 2016, when the premises proposed to be licensed is in an I-A or I-B industrial zone district.

Mr. President, I move to amend CB 16-291 in the following particulars:

On page 15, line 6, after the number "2015" insert "and the notification provisions required by section 12-96(b), as amended by this ordinance."

Amendment to CB 16-291 by Councilman Espinoza

Explanation of amendment: This amendment would add a requirement that a community engagement plan be included with all applications for any type of license under the Denver Retail Marijuana Code.

Mr. President, I move to amend CB 16-291 in the following particulars:

On page 15, after line 6, add new Sections 14 and 15 after the word 2015:

Section 14. That section 6-210, D.R.M.C. shall be amended by adding the language underlined, to read as follows:

Sec. 6-210. – Licensing requirements – provisions applicable to all licenses.

(b) Application forms and supplemental materials. All applications for local licensing shall be made upon forms provided by the director and shall include such supplemental materials as required by this article V, the Colorado Retail Marijuana Code and rules adopted pursuant thereto, including by way of example: proof of possession of the licensed premises, disclosures related to ownership of the proposed business, fingerprints of the applicants, building plans, floor plans designating the proposed licensed premises outlined in red, and security plans, and a community engagement plan that includes, at minimum, the following information:

(1) The name, telephone number, and email address of the person affiliated with the applicant who is responsible for neighborhood outreach and engagement;

(2) The names of all Registered Neighborhood Organizations whose boundaries encompass the location of the proposed licensed premises, and a statement that the applicant shall contact the Registered Neighborhood Organizations prior to commencing operations;

(3) An outreach plan to contact and engage residents and businesses in the local neighborhoods where any license is located;

(4) A detailed description of any plan to create positive impacts in the neighborhoods where the licensed premises are located, which may include by way of example, participation in community service, volunteer service, and active promotion of any local neighborhood plans;

(5) Written policies and procedures to timely address any concerns or complaints expressed by residents and businesses within the neighborhood surrounding the licensed premises.

(6) Written policies and procedures designed to promote and encourage full participation in the regulated marijuana industry by people from communities that have previously been disproportionately harmed by marijuana prohibition and enforcement in order to positively impact those communities.

To the extent any of the foregoing supplemental materials have been included with the applicant's state license application and forwarded to the city by the state licensing authority, the director may rely upon the information forwarded from the state without requiring resubmittal of the same materials in conjunction with the local license application. The director may, at the director's discretion, require additional documentation associated with the application, including additional requirements for any community engagement plan, as may be necessary to enforce the requirements of the Colorado Retail Marijuana Code and this article V.

On page 15, line 11, add a new Section 15 to the Council Bill and renumber succeeding sections accordingly:

Section 15. That section 6-218, D.R.M.C. shall be amended by adding a new subsection (f) underlined, to read as follows:

(f) All applications for renewal of any license shall include a community engagement plan as required in section 6-210.

Amendment to CB 16-0291 by Councilwoman Gilmore:

Explanation of amendment: This amendment would correct some typos in the bill as introduced.

Mr. President, I move to amend Council Bill 16-0291 in the following particulars:

On Page 6, line 26, add the letter “s” to the word “license”

On Page 8, line 18, strike the word “stores” and insert “cultivation facilities”