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ORDINANCE NO. 7716

AN ORDINANCE ADDING A NEW CHAPTER 6-14, "MEDICAL MARIJUANA," B.R.C. 1981; TERMINATING INTERIM REGULATIONS ADOPTED BY ORDINANCE NO. 7707; ADDING A NEW SECTION 4-20-64, "MEDICAL MARIJUANA DISPENSARIES," TO CHAPTER 4-20, "FEES," B.R.C. 1981, AND SETTING FORTH RELATED DETAILS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO THAT:

Section 1. The Boulder Revised Code, 1981 is amended by the addition of a new Chapter 6-14, "Medical Marijuana," B.R.C. 1981, to read:

TITLE 6 HEALTH SAFETY AND SANITATION

CHAPTER 14 MEDICAL MARIJUANA

6-14-1 Legislative Intent and Purpose.

- (a) Legislative Intent: The City Council intends to regulate the use, acquisition, production and distribution of medical marijuana in a manner that is consistent with Article XVIII, Section 14 of the Colorado Constitution (the "Medical Marijuana Amendment.")
- (1) The Medical Marijuana Amendment to the Colorado Constitution does not provide a legal manner for patients to obtain medical marijuana unless the patient grows the marijuana or the marijuana is grown by the patient's primary caregiver.
 - (2) Use, sale, production, possession, and transportation of medical marijuana remains illegal under federal law, and marijuana remains classified as a "controlled substance," by both Colorado and federal law.
 - (3) The regulations for medical marijuana uses are not adequate at the state level, making it appropriate for local regulation of the impacts of medical marijuana uses.

1 (4) Nothing in this chapter is intended to promote or condone the production, sale, or
2 possession, of marijuana in violation of any applicable law or to be more
3 restrictive than Medical Marijuana Amendment.

4 (b) Purpose. The purpose of this chapter is to implement the Medical Marijuana Amendment
5 and to protect the public health, safety, and welfare of the residents and patients of the city
6 by prescribing the manner in which medical marijuana businesses can be conducted in the
7 city. Further, the purpose of this chapter is to:

- 8 (1) Provide for the safe sale and distribution of marijuana to patients who qualify to
9 obtain, possess and use marijuana for medical purposes under the Medical
10 Marijuana Amendment.
- 11 (2) Protect public health and safety through reasonable limitations on business
12 operations as they relate to noise, air and water quality, food safety, neighborhood
13 and patient safety, security for the business and its personnel, and other health and
14 safety concerns.
- 15 (3) Promote lively street life and high quality neighborhoods by limiting the
16 concentration of any one type of business in specific areas.
- 17 (4) Impose fees to cover the cost to the city of licensing medical marijuana businesses
18 in an amount sufficient for the city to recover its costs of the licensing program.
- 19 (5) Adopt a mechanism for monitoring compliance with the provisions of this
20 chapter.
- 21 (6) Create regulations that address the particular needs of the patients and residents of
22 the city and coordinate with laws that may be enacted by the state regarding the
23 issue.
- 24 (7) Facilitate the implementation of the Medical Marijuana Amendment without
25 going beyond the authority granted by it.
- 26 (8) Support Boulder's Sustainability and Climate Action Plan goals by requiring
27 renewable sources for energy use to grow medical marijuana.
28

23 **6-14-2 Definitions.**

24 The following words and phrases used in this chapter have the following meanings unless the
25 context clearly indicates otherwise:

26 "Business manager" means the individual designated by the owner of the medical
27 marijuana business as the person responsible for all operation of the business in the
28 absence of the owner from the business premises.

1 "Distribute or distribution" means the actual, constructive, or attempted transfer,
2 delivery, sale, or dispensing to another, with or without remuneration.

3 "Financier" means any person who lends money to any person licensed under this
4 Chapter 6-14. Financier shall not include a bank, savings and loan association, or
5 industrial bank supervised and regulated by an agency of the state or federal government.

6 "Marijuana" shall have the same meaning as the term "usable form of marijuana" as set
7 forth in Article XVIII, Sec. 14(1)(i) of the Colorado Constitution, or as may be more fully
8 defined in any applicable state law or regulation.

9 "Medical marijuana" means any marijuana intended for medical use which meets all
10 requirements for medical marijuana contained in this chapter, Article XVIII, Sec. 14, and
11 any other applicable law.

12 "Medical marijuana business" means any patient that cultivates, produces, sells,
13 distributes, possesses, transports, or makes available marijuana in any form to another
14 patient or to a primary caregiver for medical use, or a primary caregiver that cultivates,
15 produces, sells, distributes, possesses, transports, or makes available medical marijuana
16 in any form to more than one patient. Possession of more than six marijuana plants and
17 two ounces of a usable form of marijuana by a patient or primary caregiver shall be
18 considered a "medical marijuana business." The term "medical marijuana business" shall
19 include a medical marijuana production facility. The term "medical marijuana business"
20 shall not include the private possession, production, distribution, and medical use of
21 marijuana by an individual patient or an individual caregiver for one patient in the
22 residence of the patient or caregiver to the extent permitted by Article XVIII, Sec. 14 of
23 the Colorado Constitution and any other applicable state law or regulation.

24 "Medical Marijuana Local Licensing Authority" means the city manager. The city
25 manager shall be the local licensing authority for the purpose of any state law that
26 requires the city to designate a local licensing authority.

27 "Medical marijuana production facility" means a retail operation that produces food or
28 other products containing medical marijuana.

"Medical use" shall have the same meaning as is set forth in Article XVIII, Sec. 14(1)(b)
of the Colorado Constitution, or as may be more fully defined in any applicable state law
or regulation.

"Patient" shall have the same meaning as is set forth in Article XVIII, Sec. 14(1)(d) of
the Colorado Constitution, or as may be more fully defined in any applicable state law or
regulation.

"Possess or possession" means having physical control of an object, or control of the
premises in which an object is located, or having the power and intent to control an
object, without regard to whether the one in possession has ownership of the object.

1 Possession may be held by more than one person at a time. Use of the object is not
2 required for possession.

3 "Primary caregiver" shall have the same meaning as is set forth in Article XVIII, Sec.
4 14(1)(f) of the Colorado Constitution, or as may be more fully defined in any applicable
5 state law or regulation.

6 "Produce or production" means (i) all phases of growth of marijuana from seed to
7 harvest, (ii) combining marijuana with any other substance for distribution, including
8 storage and packaging for resale, or (iii) preparing, compounding, processing,
9 encapsulating, packing or repackaging, labeling or re-labeling of marijuana or its
10 derivatives whether alone or mixed with any amount of any other substance.

9 **6-14-3 License Required.**

10 (a) License Required. It shall be unlawful for any person to operate a medical marijuana
11 business without obtaining a license to operate pursuant to the requirements of this
12 chapter. This licensing requirement applies to all medical marijuana businesses that exist
13 on the effective date of this chapter and any medical marijuana businesses established
14 after the effective date of this chapter.

15 (1) Any medical marijuana business that commenced operation prior to the effective date
16 of this chapter in a location where the business qualified as a use permitted as a
17 matter of right in the zone district as a "retail," "office/professional" or
18 "greenhouse/nursery" use and that has obtained a valid sales and use tax license from
19 the city may continue in operation pending final action by the city manager on the
20 application submitted pursuant to this chapter provided an application for a medical
21 marijuana business has been submitted to the city before October 31, 2010.

22 (2) Any medical marijuana business that was established as a greenhouse or nursery
23 use and commenced operation prior to the effective date of this chapter and has
24 not obtained a valid sales and use tax license from the city shall cease operation
25 until the business has complied with Section 3-2-11 "Sales and Use Tax License,"
26 and complies with all other applicable provisions of this Code. The medical
27 marijuana business may not continue in operation after August 31, 2010, unless it
28 has submitted an application pursuant to this chapter on or before August 31,
2010.

(3) Except for the provisions of Section 6-14-7, "Locations of Sale and Distribution
of Medical Marijuana," B.R.C. 1981, any existing medical marijuana business
that does not or cannot meet the licensing requirements set forth in this chapter
shall terminate its operation upon the effective date of this chapter.

(4) The city manager may extend dates provided in this section if additional time is
necessary to implement the application and review process of initial medical
marijuana licenses pursuant to this chapter.

(b) Additional Licenses and Permits May be Required. The license requirement set forth in
this chapter shall be in addition to, and not in lieu of, any other licensing and permitting

1 requirements imposed by any other federal, state, or local law including, by way of
2 example, a retail sales and use tax license, a retail food establishment license, or any
3 applicable zoning or building permit.

4 (c) License Does Not Provide any Exception, Defense, or Immunity from other Laws. The
5 issuance of any license pursuant to this chapter does not create an exception, defense, or
6 immunity to any person in regard to any potential criminal liability the person may have
7 for the production, distribution or possession of marijuana.

8 (d) Separate License Required for Each Location. A separate license shall be required for
9 each location from which a medical marijuana business is operated. Provided however,
10 in the event that a medical marijuana business has more than one location, a medical
11 marijuana business license shall not be required for the location at which:

- 12 (1) No medical marijuana is produced, dispensed or possessed; and
- 13 (2) Neither patients nor caregivers other than the licensee go to the location
14 for purposes related to the medical marijuana business; and
- 15 (3) No employees go to the location on a regular basis; and
- 16 (4) Only peripheral operations of the business including without limitation,
17 bookkeeping, administrative services, or deliveries that do not include
18 medical marijuana, occur at the location.

19 **6-14-4 General Provisions.**

20 (a) General Licensing Provisions. The general procedures and requirements of licenses, as
21 more fully set forth in Chapter 4-1, "General Licensing Provisions," B.R.C. 1981 shall
22 apply to medical marijuana business licenses. To the extent there is any conflict between
23 the provisions of this chapter and Chapter 4-1, the provisions of this chapter shall control
24 for medical marijuana business licenses.

25 (b) Defense to Criminal Prosecutions. Compliance with the requirements of this chapter
26 shall not provide an exception, immunity or defense to criminal prosecution under any
27 applicable law, except in the Boulder Municipal Court for a violation of this Chapter as
28 specifically provided herein.

(c) Insurance Required. The insurance specified in section 4-1-8, "Insurance Required,"
B.R.C. 1981 is required for a license under this chapter.

6-14-5 Application.

(a) Application Requirements. An application for a medical marijuana business license shall
be made to the city on forms provided by the city manager for that purpose. The
applicant shall use the application to demonstrate its compliance with this chapter and
any other applicable law, rule or regulation. In addition to the information required by

1 chapter 4-1, "General Licensing Provisions," B.R.C. 1981, the application shall include
2 the following information:

- 3 (1) Name and address of the owner or owners of the medical marijuana business in
4 whose name the license is proposed to be issued.
- 5 A. If the owner is a corporation, the name and address of any officer or
6 director of the corporation, and of any person holding ten percent or more
7 of the issued and outstanding capital stock of the corporation.
- 8 B. If the owner is a partnership, association or company, the name and
9 address of any person holding ten percent or more of the interest therein,
10 and the managing members. If the managing member is an entity rather
11 than an individual, the same disclosure shall be required for each entity
12 with an ownership interest until a managing member that is a natural
13 person is identified.
- 14 C. If the owner is not a natural person, the organizational documents for all
15 entities identified in the application, identification of the natural person
16 that is authorized to speak for the entity, and contact information for that
17 person.
- 18 (2) Name and address of:
- 19 A. Any business managers of the medical marijuana business, if the business
20 manager is proposed to be someone other than the owner.
- 21 B. All financiers of the medical marijuana business.
- 22 C. All primary caregivers that will consult with patients or distribute medical
23 marijuana at the medical marijuana business.
- 24 (3) A statement of whether or not any of the named owners, members, business
25 managers, financiers, primary caregivers, or persons named on the application
26 have been:
- 27 A. Denied an application for a medical marijuana business license pursuant to
28 this chapter or any similar state or local licensing law, rule or regulation,
or had such a license suspended or revoked.
- B. Denied an application for a liquor license pursuant to Title 12, Article 47
or Article 46, C.R.S. or any similar state or local licensing law, or had
such a license suspended or revoked.
- C. Convicted of a crime, other than a traffic offense, or completed any
portion of a sentence due to a criminal conviction.
- D. Convicted of driving or operating other machinery under the influence of
alcohol, drugs or medication, driving while impaired or driving with

1 excessive alcohol content in violation of section 42-4-1301, C.R.S. or any
2 comparable law, or a misdemeanor related to abuse of alcohol or a
3 controlled substance.

- 4 (4) Proof of ownership or legal possession of the licensed premises for a medical
5 marijuana business for the term of the proposed license.
- 6 (5) Proof of insurance as provided in Section 4-1-8, "Insurance Required," B.R.C.
7 1981.
- 8 (6) An operating plan for the proposed medical marijuana business including the
9 following information:
- 10 A. A description of the products and services to be provided by the medical
11 marijuana business, including an indication of whether or not the business
12 proposes to engage in the production of retail sale of food or other
13 products for human ingestion, and whether any products or services will
14 be provided at a location different than the address on the license
15 application.
- 16 B. A dimensioned floor plan, clearly labeled, showing:
- 17 (i) The layout of the structure and the floor plan in which the medical
18 marijuana business is to be located;
- 19 (ii) The principal uses of the floor area depicted on the floor plan,
20 including, but not limited to, the areas where non-patients will be
21 permitted, private consulting areas, storage areas, retail areas, and
22 areas where medical marijuana will be distributed;
- 23 (iii) Production areas if any, which shall not be open to any persons
24 other than those employed by the business; and
- 25 (iv) Areas where any services other than the distribution of medical
26 marijuana are proposed to occur on the licensed premises.
- 27 (v) The separation of the areas that are open to persons who are not
28 patients from those areas open to patients.
- C. A plan that demonstrates how the business will fulfill its responsibilities as
good neighbors including neighborhood outreach, methods for future
communication, and dispute resolution with the surrounding
neighborhood.
- D. For medical marijuana businesses to operate as a greenhouse/nursery or a
manufacturing use, a plan that specifies the methods to be used to prevent
the growth of harmful mold and compliance with limitations on discharge
into the wastewater system of the city as set forth in Chapter 11-3,
"Industrial and Prohibited Discharges," B.R.C. 1981.

- 1 (7) A security plan indicating how the applicant will comply with the requirements of
2 this chapter and any other applicable law, rule or regulation. The applicant may
3 submit the portions of such security plans which include trade secrets or
4 specialized security arrangements confidentially. The city will not disclose
5 documents appropriately submitted under the Colorado Open Records Act section
6 24-72-201, C.R.S. *et seq.*, C.R.S. if they constitute confidential trade secrets or
7 specialized security arrangements to any party other than law enforcement
8 agencies. Any document that the applicant considers eligible for protection under
9 the Colorado Open Records Act shall be clearly marked as confidential and the
10 reasons for such confidentiality shall be stated on the document. If the city finds
11 that such documents are subject to inspection, it will provide at least twenty-four
12 hour notice to the applicant prior to such disclosure.
- 13 (8) A lighting plan showing the lighting outside of the medical marijuana business for
14 security purposes and compliance with applicable city requirements.
- 15 (9) An area map obtained from the city, drawn to scale, indicating, within a radius of
16 one-quarter mile from the boundaries of the property upon which the medical
17 marijuana business is located, the proximity of the property to any primary or
18 secondary school or state licensed child care center, to any other medical
19 marijuana business, or to any residential zone district.
- 20 (10) Fingerprints and personal histories as may be specified on forms provided by the
21 city manager. This requirement shall apply to all owners, business managers,
22 financiers, and caregivers employed by or under contract to provide services to
23 the medical marijuana business, including all individuals who own ten percent or
24 more of the medical marijuana business, directly or as a member, partner, or
25 officer of a corporation, partnership, association, or company.
- 26 (b) Evidence of Rehabilitation May Be Submitted. In the event the criminal history of an
27 owner, member, business manager, financier, primary caregiver, or other person named
28 on the application contains information regarding conviction of a crime or previous
denial or revocation of a license, that person may include with the license application any
information regarding such conviction, denial or revocation. Such information may
include but is not limited to evidence of rehabilitation, character references, and
educational achievements, especially those items pertaining to the period of time between
the applicant's last criminal conviction and the date of the application.
- (c) Fee Required. Any application for a medical marijuana business permit shall be
accompanied by the application fee, criminal background check fee, the annual license
fee as required by section 4-20-64, "Medical Marijuana Dispensaries," B.R.C. 1981, and
any other applicable fees.
- (c) Inspection. An inspection of the proposed medical marijuana business by the city shall
be required prior to issuance of a license. Such inspection shall occur after the licensed
premises are ready for operation, but prior to the opening of the business to any patients
or the public. The inspection is to verify that the business facilities are constructed and

1 operated in accordance with the application submitted and the applicable requirements of
2 the Code and any other applicable law, rule or regulation.

- 3 (d) Approval Requirements. The city manager may issue a medical marijuana business
4 license if the inspection, background checks, and all other information available to the
5 city verify that the applicant has submitted a full and complete application, has made
6 improvements to the business location consistent with the application, and is prepared to
7 operate the business with other owners and managers as set forth in the application, all in
8 compliance with this Code and any other applicable law, rule or regulation. The city
9 manager will deny any application that does not meet the requirements of this chapter or
10 any other applicable law, rule or regulation, or that contains any false or incomplete
11 information.

12 **6-14-6 Persons Prohibited as Licensees and Business Managers.**

- 13 (a) No license provided by this chapter shall be issued to or held by, and no medical
14 marijuana business shall be managed by:
- 15 (1) Any person until the annual fee therefore has been paid;
 - 16 (2) Any person not of good moral character;
 - 17 (3) Any corporation, any of whose officers, directors, or stockholders holding ten
18 percent or more ownership interest are not of good moral character;
 - 19 (4) Any partnership, association, or company, any of whose officers or members
20 holding ten percent or more interest therein, or a managing member, are not of
21 good moral character;
 - 22 (5) Any person employing, assisted by, or financed in whole or in part by any other
23 person who is not of good moral character;
 - 24 (6) Any person unless such person's character, record, and reputation are satisfactory
25 to the city manager;
 - 26 (7) Any natural person who is under twenty-one years of age;
 - 27 (8) Any person who operates or manages a medical marijuana business contrary to
28 the provisions of this chapter, any other applicable law, rule or regulation, or
conditions imposed on land use or license approvals, or contrary to the terms of
the plans submitted with the license application, as such plans may be amended as
provided in this chapter.
- (b) In making the evaluation of the good moral character of an individual identified on an
application or amendment thereof, the city manager shall consider the following:
- (1) A criminal conviction shall not, by itself, be grounds for denying an application;
 - (2) Verification of or lack of ability to verify items disclosed by the individual;

- (3) When an individual has a criminal history or a history including denial, revocation or suspension of a license, the types and dates of violations; the evidence of rehabilitation, if any, submitted by the individual; whether the crimes are related to moral turpitude, substance abuse, or other crimes that may directly affect the individual's ability to operate a medical marijuana business; or whether the crimes are unrelated to the individual's ability to operate such a business;
- (4) The evidence or lack of evidence regarding the ability of the individual to refrain from being under the influence of intoxicating or controlled substances while performing regular tasks and operating a medical marijuana business;
- (5) Rules adopted by the city manager to implement this chapter;
- (6) Law, rules and regulations applicable to evaluation of other types of licenses issued by governments that consider the good moral character of the applicants;
- (7) Any additional information the city manager may request of the individual if the individuals has a criminal history, an administrative or judicial finding of violation of laws regarding use of alcohol or controlled substances, or items disclosed by the individual require additional information in order for the city manager to make a determination regarding issuance of the license.

6-14-7 Locations of Medical Marijuana Businesses.

- (a) Fixed Location Required. All medical marijuana business licenses shall be issued for a specific fixed location within an enclosed building. The portion of such premises upon which the floor plan shows medical marijuana may be produced, dispensed or possessed shall be considered the "licensed premises" portion of the business.
- (b) Location – Permitted Use in Zoning District. A medical marijuana business license may be issued only if the business qualifies as a use permitted as a matter of right in the zone district it is proposed to be located, as “personal services,” or “greenhouse/nursery,” or "manufacturing." A medical marijuana business license also may be issued as a “service” use in a mixed use district if permitted as a “use review” use, as defined in Chapter 9-16, “Definitions,” B.R.C. 1981, in accordance with the following use table:

MEDICAL MARIJUANA BUSINESS USE TABLE

Use Modules	R1	R2	R3	R4	R5	R6	R7	R8	MH	M1	M2	M3	B1	B2	B3	B4	B5	D1	D2	D3	I1	I2	I3	I4	P	A
Personal service uses										U	U	U	A	A	A	A	A	A	A							
Manufacturing uses ≤15,000 square feet																					A	A	A	A		
Manufacturing uses >15,000 square feet																					U	A	A	A		
Greenhouse and plant nurseries																					A	A	A	A		A

A: Allowed use by right **U:** Use Review Required

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2 (c) No Retail in Greenhouse and Plant Nurseries or Manufacturing. No person shall allow
3 retail sales within a medical marijuana business permitted as a "Greenhouse and Plant
4 Nursery" or "Manufacturing" use.
- 5 (d) Distribution by Primary Caregiver. All distribution of medical marijuana shall be made
6 directly by a primary caregiver to a patient upon the licensed premises, or via personal
7 delivery of the medical marijuana by the primary caregiver from the licensed premises to
8 the patient at the patient's residence.
- 9 (e) Separation from Schools, Day Care Centers, or Other Medical Marijuana Uses. No
10 medical marijuana business license shall be issued for the following locations:
- 11 (1) Within five hundred feet of any primary or secondary school or state licensed day
12 care center. Distances shall be measured by the city on official maps as the radius
13 from the closest points on the perimeter of the applicant's property to the closest
14 point of the property of the school or day care center. This restriction shall not
15 apply to any applicant who applied for a business license for a medical marijuana
16 business prior to November 5, 2009, such license was approved and the business
17 has continuously operated such business since December 1, 2009.
- 18 (2) Within five hundred feet of three other medical marijuana businesses, except that
19 this limitation shall not apply in Industrial zones.
- 20 A. Distances shall be measured by the city on official maps as the radius from
21 the closet points on the perimeter of the applicant's property to the closest
22 point of the property of any other medical marijuana business.
- 23 B. This restriction shall not apply to any applicant who submits an
24 application for a license for a medical marijuana business prior to
25 September 1, 2010 in any location where the same applicant had obtained
26 a retail sales tax license for the business on or before January 1, 2010,
27 regardless of whether the actual sale or other distribution of medical
28 marijuana had commenced at that location as of January 1, 2010.
- 29 C. To determine the proximity to other medical marijuana businesses and the
30 priority of applications, businesses shall have priority in the following
31 order:
- 32 (i) businesses that are open and operating,
33 (ii) businesses whose applications have been approved, and
34 (iii) applications for medical marijuana business licenses that have been
35 submitted by the applicant and declared complete by the city.
36 (iv) No other applications shall be considered "businesses" for this
37 determination.
- 38 (3) Within a dwelling unit within any zone or within a residential zone district, as
described in Table 5-1 of Section 9-5-2, "Zoning Districts," B.R.C. 1981.

1 (4) In any location which also is a part of the licensed premises of a business holding
2 a beverages license pursuant to Section 4-2-3 of this Code.

3 (f) Limitations on Personal Services Uses: The following shall be the minimum
4 requirements to qualify as use provided for the "convenience of the neighborhood" as
5 required in Title 9 for the personal services use category:

6 (1) The area of the business is 3,000 square feet, or less;

7 (2) The business does not distribute medical marijuana only, but provides other
8 caregiver services consistent with a wellness center, including but not limited to,
9 health treatments or therapy generally not performed by a medical doctor or
10 physician, such as physical therapy, massage, acupuncture, aromatherapy, yoga,
11 audiology or homeopathy or knowledgeable consultation on the effects of amount
12 and forms of ingestion of different types of marijuana for medical use; and

13 (3) The business includes one or more private rooms for consultation on the medical
14 use of marijuana or other services.

15 (4) If the Personal Services use requires a use review in the applicable district the
16 applicant shall comply with Section 9-2-4, "Good Neighbor Meetings and
17 Management Plans," B.R.C. 1981 as part of the use review.

18 **6-14-8 Requirements Related to Operation of Medical Marijuana Businesses.**

19 (a) Onsite Use Prohibited. No marijuana shall be smoked, eaten or otherwise consumed or
20 ingested within the medical marijuana business.

21 (b) Age Limitations. No person under eighteen years of age shall be permitted on the
22 licensed premises, unless the person is accompanied by a parent or guardian.

23 (c) Display of Licenses Required. The name and contact information for the owner or
24 owners and any business manager of the medical marijuana business, the medical
25 marijuana business license, and the sales tax business license shall be conspicuously
26 posted in the business.

27 (d) Business Conducted within Building. Any and all production, distribution, possession,
28 storage, display, sales or other distribution of marijuana shall occur within an enclosed
building and shall not be visible from the exterior of the building.

(e) Owner or Business Manager Required on Premises. No licensed premises shall be
managed by any person other than the licensee or the business manager listed on the
application for the license, or a renewal thereof. Such licensee or business manager shall
be on the premises and responsible for all activities within the licensed business during
all times when the business is open or in the possession of another person. In the event
the licensee intends to employ a business manager that was not identified on the license
or renewal application, the licensee shall report the name of such business manager to the

1 city, and such business manager shall submit to the city, at least 30 days prior to
2 commencing serving as the business manager, an application containing all of the
3 information required by this chapter and on the license application. Such licensee shall
4 report to the city any change in business managers at least 30 days prior to employing an
5 additional business manager, and no more than 5 days after a business manager is
6 released from such position.

7 (f) Hours of Operation. The medical marijuana business shall be closed to the public, and no
8 sale or other distribution of marijuana shall occur upon the licensed premises or via
9 delivery from the licensed premises between the hours of 9 p.m. and 7 a.m.

10 (g) Use of Pesticides. No pesticides, insecticides or noxious substances which are prohibited
11 by applicable law for fertilization or production of edible produce shall be used on any
12 marijuana produced, possessed or dispensed by a medical marijuana business

13 (h) Ventilation Required. The licensed premises shall be properly ventilated to filter the odor
14 from marijuana so that the odor cannot be detected by a person with a normal sense of
15 smell at the exterior of medical marijuana business or at any adjoining use or property.

16 (i) Renewable Energy Usage Required. Every medical marijuana business that grows
17 medical marijuana on premise shall directly offset 100% of its electricity consumption
18 through the purchase of renewable energy in the form of Windsorce, a verified
19 subscription in a Community Solar Garden, or renewable energy generated on-site, or an
20 equivalent that is subject to approval by the city.

21 (j) Limitations on Inventory. The medical marijuana business shall not maintain any more
22 marijuana within the licensed premises than is permitted under applicable law for the
23 patients which have designated the business as primary caregiver. The medical
24 marijuana business shall maintain current records evidencing the status as patients of
25 those who have designated the business as the patient's primary caregiver.

26 (k) Reporting Requirements. A licensee shall report each transfer or change of financial
27 interest, business manager, financier and primary caregiver in the license to the city at
28 least thirty days before the transfer or change. A report shall be required for change of the
managing member and transfers of capital stock of a public corporation, or other change
in ownership interest in a business entity; except that a report shall not be required for
transfers of such stock totaling less than ten percent in any one year, but any transfer of a
controlling interest shall be reported regardless of size.

(l) Delivery to Patients. In the event a primary caregiver personally delivers medical
marijuana to one or more patients, at all times any medical marijuana is outside of the
licensed premises:

- (1) The medical marijuana shall be packaged, sealed and labeled as provided in this
chapter. The label shall include the name of the patient to whom it is being
delivered;

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- (2) The primary caregiver delivering the medical marijuana shall have in the primary caregiver's possession documents evidencing (i) the patient identified on each package of medical marijuana has designated the person as the patient's primary caregiver, (ii) the patient requested delivery of medical marijuana by the primary caregiver, (iii) the amount of the requested delivery, (iv) the date of the requested delivery, and (v) if more than two ounces is being delivered to a patient, a copy of the doctor's recommendation for that patient specifying the additional amount of medical marijuana medicinally necessary for that patient.
- (3) In no event shall the primary caregiver be in possession of more than eight ounces of a usable form of medical marijuana for delivery outside of the licensed premises.

10 **6-14-9 Right of Entry – Records to be Maintained.**

- 11 (a) Records to be Maintained. Each licensee shall keep a complete set of books of account, invoices, copies of orders and sales, shipping instructions, bills of lading, weigh bills, correspondence, and all other records necessary to show fully the business transactions of such licensee. The licensee shall also maintain records evidencing that no more marijuana was within the medical marijuana business than allowed by applicable law for the number of patients who designated the medical marijuana business owners as their primary caregiver. All such records shall be open at all times during business hours for the inspection and examination of the city or its duly authorized representatives. The city may require any licensee to furnish such information as it considers necessary for the proper administration of this chapter. The records shall clearly show the source, amount, price, and dates of all marijuana received or purchased, and the amount, price, dates, and patient or caregiver for all medical marijuana sold.
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- 19 (b) Disclosure of Records. By accepting the medical marijuana business license, the licensee is providing consent to disclose the information required by this chapter, including information about patients and caregivers. Any records provided by the licensee that includes patient or caregiver confidential information may be submitted in a manner that maintains the confidentiality of the documents under the Colorado Open Records Act, C.R.S. 24-72-201, *et seq.* or other applicable law. Any document that the applicant considers eligible for protection under the Colorado Open Records Act shall be clearly marked as confidential and the reasons for such confidentiality shall be stated on the document. In the event that the licensee does appropriately submit documents so as not to be disclosed under the Colorado Open Records Act, the city shall not disclose it to other parties who are not agents of the city, except law enforcement agencies. If the city finds that such documents are subject to inspection, it will provide at least twenty-four hour notice to the applicant prior to such disclosure
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- 27 (c) Audits. The city may require an audit to be made of such books of account and records
28 on such occasions as it may consider necessary. Such audit may be made by an auditor to

1 be selected by the city that shall likewise have access to all books and records of such
2 licensee. The expense of any audit determined necessary by the city shall be paid by said
3 licensee.

4 (d) Consent to Inspection. Acceptance of the medical marijuana business license from the
5 city constitutes consent by the licensee, owners, managers and employees to permit the
6 city manager to conduct routine inspections of the licensed medical marijuana business to
7 ensure compliance with this chapter or any other applicable law, rule or regulation.

8 (e) Reporting of Source, Quantity and Sales. The records to be maintained by each licensee
9 shall include the source and quantity of any marijuana distributed, produced or possessed
10 upon the licensed premises. Such reports shall include without limitation for both
11 acquisitions from wholesalers and transactions to patients or caregivers the following:

- 12 1. Name and address of seller or purchaser;
- 13 2. Date, weight, type of marijuana and dollar amount or other consideration of
14 transaction; and
- 15 3. For wholesale transactions, the Colorado, and city if any, sales and use tax license
16 number of the seller.

17 (f) Reporting of Energy Use and Renewable Energy Credit (REC) Purchases. The records to
18 be maintained by each licensee that grows medical marijuana shall include without
19 limitation records showing on a monthly basis the use and source of energy and the
20 number of certified Renewable Energy Credits (RECs) purchased, or the subscription
21 level for another renewable energy acquisition program approved by the city manager.
22 Such records shall include all statements, reports or receipts to verify the items included
23 in the report of the licensee. By acceptance of the medical marijuana business license
24 from the city, the licensee grants permission to providers of the energy or point of origin
25 of the RECs or other renewable energy acquisition program to disclose the records of the
26 licensee to the city.

27 **6-14-10 Requirements Related to Security of Licensed Premises and Inventory.**

28 The licensed premises shall contain all components in good working order of the security plan
submitted with the application, as it may be amended, and shall be monitored and secured 24-
hours per day including, at a minimum, the following security measures:

(a) Cameras. The medical marijuana business shall install and use security cameras to
monitor all areas of the licensed premises and where persons may gain or attempt to gain
access to marijuana or cash maintained by the medical marijuana business. Recordings
from security cameras shall be maintained for a minimum of seventy-two hours in a
secure off-site location.

- 1 (b) Use of Safe for Storage. The medical marijuana business shall install and use a safe for
2 overnight storage of any processed marijuana, and cash on the licensed premises, with the
3 safe being incorporated into the building structure or securely attached thereto.
- 4 (c) Alarm System. The medical marijuana business shall install and use a monitored alarm
5 system.
- 6 (d) Report of Criminal Activity. Reports of all criminal activities or attempts thereof shall be
7 reported to the Boulder Police Department within 12 hours of occurrence.

8 **6-14-11 Requirements for Public Health and Labeling.**

- 9 (a) Ingestible Items. The production of any medical marijuana distributed by a medical
10 marijuana business in an edible form, or other form which is intended to enter the body of
11 a patient, shall be prepared at a medical marijuana production facility that meets all
12 requirements of a retail food establishment as set forth in section 25-4-1601, *et seq.*
13 C.R.S. the Food Protection Act. The production of any product containing medical
14 marijuana shall comply with all health and safety standards thereof. The licensee shall
15 comply with all applicable state and local health regulations related to the production,
16 preparation, labeling, and sale of prepared food items.
- 17 (b) Labeling and Packaging Requirements. All medical marijuana sold or otherwise
18 distributed by the licensee shall be packaged and labeled in a manner that advises the
19 purchaser that it contains marijuana, specifies the amount of marijuana in the product,
20 and that the marijuana is intended for medical use solely by the patient to whom it is sold,
21 and that any re-sale or re-distribution of the medical marijuana to a third person is
22 prohibited. The label shall include all ingredients contained in the product, in order from
23 most abundant to least abundant. The label shall identify potential food allergy
24 ingredients, including milk, eggs, fish, shellfish, tree nuts, peanuts, wheat and soybeans.
25 The product shall be packaged in a sealed container that cannot be opened without
26 obvious damage to the packaging. The label shall contain the following warning:

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THIS PRODUCT IS MANUFACTURED WITHOUT ANY
REGULATORY OVERSIGHT FOR HEALTH, SAFETY OR
EFFICACY. THERE MAY BE HEALTH RISKS ASSOCIATED WITH
THE INGESTION OR USE OF THIS PRODUCT.

- 23 (c) Additional Requirements for Extracts. For products containing medical marijuana
24 extracted from the plant, including without limitation, tinctures, balms, oils, butters, or
25 candies, the label shall also include the name of the extraction fluid used, the strength of
26 the medical marijuana in the extraction fluid, and the amount of extract in the sealed
27 product.

1 **6-14-12 Compliance with State Law.**

2 (a) Strictest Law Applies. To the extent the state has adopted or adopts in the future any
3 additional or stricter law or regulation governing the production, possession, or
4 distribution of marijuana for medical use, the additional or stricter regulation shall control
5 the establishment or operation of any medical marijuana business in the city. Compliance
6 with any applicable state law or regulation shall be deemed an additional requirement for
7 issuance or denial of any license under this chapter, and non-compliance with any
8 applicable state law or regulation shall be grounds for revocation or suspension of any
9 license issued under this chapter. No medical marijuana business shall continue
10 operations in violation of an additional or stricter state law or regulation applicable within
11 the city after the effective date of the state law or regulation.

12 (b) Revocation of License upon State or Applicable Federal Prohibition. A medical
13 marijuana license is a revocable privilege, and no holder thereof shall be deemed to have
14 acquired any property interest therein. If the state prohibits the production, possession, or
15 other distribution of marijuana through medical marijuana businesses, or if a court of
16 competent jurisdiction determines the federal government's prohibition of the production,
17 possession, or other distribution of marijuana through medical marijuana businesses
18 supersedes state law, any license issued pursuant to this chapter shall be deemed to be
19 immediately revoked by operation of law, with no ground for appeal or other redress on
20 behalf of the licensee.

21 **6-14-13 Prohibited Acts.**

22 (a) Prohibited Acts. It shall be unlawful for any person to:

- 23 (1) Violate any provision of this Code or any condition of an approval granted
24 pursuant to this Code, or any applicable law, rule or regulation.
- 25 (2) Obtain marijuana from a medical marijuana business for use by a patient and
26 subsequently distribute any portion of such marijuana to another person;
- 27 (3) Take marijuana for medical use in any form in plain view of, or in a place open
28 to, the general public. Places open to the general public include, but are not
limited to, any property owned, leased or used by a public entity, retail malls,
common areas of a building, or in vehicles visible from a place open to the
general public;
- (4) Possess, distribute, produce, use or ingest marijuana or alcoholic beverages or a
controlled substance on the premises of the medical marijuana business;
- (5) Produce, distribute or possess more medical marijuana than allowed in this
chapter or other applicable law;

- 1 (6) Produce, distribute or possess medical marijuana in violation of this chapter or
2 any other applicable law;
- 3 (7) Make any changes, or for the licensee to allow any changes in the items included
4 in the plans submitted to and approved by the city pursuant to this chapter,
5 without prior approval of the city;
- 6 (8) Allow medical marijuana within a medical marijuana business in a location
7 outside of the licensed premises portion of such business. It shall be a violation of
8 this subsection for all persons that allow medical marijuana within the business,
9 but outside of the licensed premises, that are either in possession of the medical
10 marijuana or responsible for the licensed premises at the time the medical
11 marijuana is within the business but outside of the licensed premises. It shall be
12 an affirmative defense to a violation of this section if the medical marijuana
13 outside of the licensed premises was (i) in the custody and control of a patient, (ii)
14 purchased by that patient from the business and the patient has not left the
15 business since purchase, and (iii) the amount of medical marijuana in the custody
16 and control of the patient does not exceed the amount the patient may possess
17 lawfully;
- 18 (9) Possess more than six marijuana plants and two ounces of a usable form of
19 marijuana without a medical marijuana business license; It shall be an affirmative
20 defense to this charge if the recommendation from the physician of the patient for
21 whom the marijuana is being grown includes a recommendation for a specific
22 amount of marijuana in excess of six marijuana plants or two ounces of a usable
23 form of marijuana as being medically necessary to address the patient's
24 debilitating medical condition;
- 25 (10) Possess medical marijuana that is not in a sealed package while in control of a
26 motor vehicle.

27 (b) Affirmative Defense. It shall be an affirmative defense to any violation of this chapter
28 that the prohibited act is specifically authorized by the Medical Marijuana Amendment.

(c) Suspension or Revocation of Licenses. A medical marijuana business license may be
suspended or revoked for any of the following violations:

- (1) Conviction of any owner, business manager, financier or primary caregiver of any
violation of this chapter or any other applicable law, rule or regulation;
- (2) Misrepresentation or omission of any material fact, or false or misleading
information, on the application or any amendment thereto, or any other
information provided to the city related to the medical marijuana business;

- 1 (3) Conviction of any person named on the application or amendment thereto of a
2 crime which, if occurring prior to submittal of the application, could have been
3 cause for denial of the license application;
- 4 (4) Allowing distribution of medical marijuana, including but not limited to delivery
5 to a patient, in violation of this chapter or any other applicable law, rule or
6 regulation;
- 7 (5) Allowing the operation of a medical marijuana business in violation of the
8 specifications of the license application, any conditions of approval by the city, or
9 any violation of this chapter or any other applicable law, rule or regulation;
- 10 (6) Failure to maintain, or provide to the city upon request, any books or records
11 required by this chapter;
- 12 (7) Failure to timely notify the city and to complete necessary city forms for changes
13 in financial interest, business managers, financier or primary care giver
- 14 (8) Temporary or permanent closure, or other sanction of the business, by the city, or
15 by the County or State Public Health Department or other governmental entity
16 with jurisdiction, for failure to comply with health and safety provisions of this
17 chapter or otherwise applicable to the business or any other applicable law.

18 **6-14-14 Term of License - Renewals - Expiration of License if no Sales Tax Return.**

- 19 (a) Term of License. A medical marijuana business license shall be valid for one year. The
20 license shall expire on the last day of the month in which the license is issued of the year
21 following issuance or renewal of the license. For the first license issued for a medical
22 marijuana business, the city manager may designate an expiration date in excess of one
23 year, but no more than twenty-four months, to facilitate the administration by the city of
24 renewals of such licenses.
- 25 (b) Renewal of License. The licensee shall apply for renewal of the medical marijuana
26 business license at least 60 days before the expiration of the license. The licensee shall
27 apply for renewal using forms provided by the city.
 - 28 (1) The renewal license fee shall accompany the renewal application. Such fee is
non-refundable.
 - (2) In the event there has been a change to any of the plans identified in the license
application which were submitted to and approved by the city with the application
or an earlier renewal, the renewal application shall include specifics of the
changes or proposed changes in any of such plans.
 - (3) In the event any person who has an ownership interest as described in the
disclosures made to the city pursuant to this chapter, or any business manager,
financier, caregiver, or employee has any criminal violations since such

1 disclosure, the renewal application shall include the name of the violator, the date
2 of the violation, the court and case number where the violation was filed and the
3 disposition of the violation with the renewal application.

4 (4) The renewal application shall include a summary report for the previous 12
5 months showing the amount of marijuana purchased, the amount of marijuana
6 sold, the forms in which marijuana was sold, the number of patients and the
7 number of primary caregivers who received marijuana, the police report numbers
8 or case numbers of all police calls to the medical marijuana business and the
9 charge, case number, and disposition of any of such calls which resulted in
10 criminal charges.

11 (c) Non-payment of Tax. In the event a medical marijuana business that has been open and
12 operating and submitting sales tax returns to the city ceases providing sales tax returns to
13 the city for a period of three months or longer, the medical marijuana license shall be
14 deemed to have expired and a new license required prior to re-opening at the location of
15 the business.

16 **6-14-15 City Manager Authorized to Issue Rules.**

17 The city manager may adopt rules and regulations that the manager determines are reasonably
18 necessary to implement the requirements of this chapter.

19 Section 2. Chapter 4-20, "Fees," B.R.C. 1981 is amended by the addition of a new
20 section 4-20-64, to read:

21 **4-20-64 Medical Marijuana Businesses.**

22 Application and license fees for medical marijuana businesses shall be up to the following
23 amounts:

24 (a) Application fee	\$3,000.00
25 (b) Criminal background check fee, per person checked	Actual Costs
26 (c) License fee, per year	\$2,000.00
27 (d) Renewal application fee, per year	\$1,000.00
28 (e) Renewal license fee, per year	\$1,000.00

The actual amount of the application and license fees shall be set by the City Manager up to the
maximums provided above based on the anticipated direct and indirect costs to the City of
preparing to issue licenses, processing applications, and monitoring compliance of medical
marijuana business. The application fee and costs paid are non-refundable. The license fee may
be refunded if the license application is denied. Neither the application fee nor the
license/renewal fee will be refunded in the instance of revocation.

1 READ ON THIRD READING, PASSED, ADOPTED AND ORDERED PUBLISHED

2 BY TITLE ONLY this 18th day of May, 2010.

3 
4 Susan M. Boone
Mayor

5 Attest:

6 
7 Alisa D. Lewis
City Clerk on behalf of the
Director of Finance and Record

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