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ORDINANCE NO. 7780

AN ORDINANCE AMENDING CHAPTER 6-14, "MEDICAL MARIJUANA," 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. Chapter 6-14, B.R.C. 1981, is amended to read:

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.

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

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

(1) Provide for the safe sale and distribution of marijuana to patients who qualify to obtain, possess and use marijuana for medical purposes under the Medical Marijuana Amendment.

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

18 (c) Relationship to State Law. The provisions in this chapter that are different from
19 the State Law are consistent with the city's responsibility to protect the public
20 health, safety and welfare as authorized by Section 12-43.3-305(3), C.R.S. and by
21 the home rule authority granted to the city by Article XX of the Colorado
22 Constitution and the Charter of the city. The city intends that both State Law and
23 this chapter apply within the city. Where this chapter conflicts with the State
24 Law, this chapter shall apply on all matters authorized in Section 12-43.3-101, et
25 seq., C.R.S. and all matters of local concern.

26 (d) Adoption of this chapter 6-14 is not intended to waive or otherwise impair any
27 portion of the local option available under Section 12-43.3-106, C.R.S.

28 **6-14-2 Definitions.**

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

“Business manager” means the individual designated by the owner of the medical marijuana business as the person responsible for all operation of the business in the absence of the owner from the business premises.

“Cultivation facility” or “optional premises” means a licensed medical marijuana business that is owned by the same owner as a medical marijuana center and produces

1 and harvests medical marijuana plants for a medical use for distribution by such medical
2 marijuana center.

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

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

9 "Licensed premises" means the portion of a licensed medical marijuana business location
10 within which the licensee is authorized to distribute, possess, or produce medical
11 marijuana and which premises are clearly identified as the licensed premises on the floor
12 plan submitted with the medical marijuana business license application for the business.

13 "Licensee" means the medical marijuana business named on the medical marijuana
14 business license, and all individuals named in the medical marijuana business license
15 application, or later reported to the city, including without limitation, owners, business
16 managers, financiers, and individuals owning any part of an entity that holds a financial
17 or ownership interest in a medical marijuana business.

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

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

24 "Medical marijuana business" means any ~~person~~ patient that cultivates, produces, sells,
25 distributes, possesses, transports, or makes available marijuana in any form to ~~another~~
26 patient or to a primary caregiver for medical use, or a primary caregiver that cultivates,
27 produces, sells, distributes, possesses, transports, or makes available medical marijuana
28 in any form to more than one patient. Possession of more than six marijuana plants and
two ounces of a usable form of marijuana by a patient or primary caregiver shall be
considered a "medical marijuana business." ~~The term "medical marijuana business" shall~~
~~include a medical marijuana production facility.~~ ~~The term "medical marijuana business"~~
shall not include the private possession, production, ~~distribution,~~ and medical use of
marijuana by an individual patient or ~~the private possession, production, distribution, and~~
medical use of marijuana by an individual caregiver for one patient in the residence of the
patient or caregiver to the extent permitted by Article XVIII, Sec. 14 of the Colorado
Constitution. ~~and any other applicable state law or regulation.~~

1 “Medical marijuana center” means a licensed medical marijuana business that distributes
2 medical marijuana to patients or primary caregivers or to medical marijuana-induced
3 product manufacturers or to another medical marijuana center.

4 “Medical marijuana-infused product” means a product infused with medical marijuana
5 that is intended for use or consumption other than by smoking, including without
6 limitation, edible products, ointments, and tinctures.

7 “Medical marijuana-infused product manufacturer” means a licensed medical marijuana
8 business that produces medical marijuana-infused products.

9 “Medical Marijuana Local Licensing Authority” means the city manager. The city
10 manager shall be the local licensing authority for the purpose of any state law that
11 requires the city to designate a local licensing authority.

12 “Medical marijuana plant” means a marijuana seed that is germinated and all parts of the
13 growth therefrom including without limitation, roots, stalks, and leaves. For purposes of
14 this chapter, the portion of a medical marijuana plant harvested from the plant or
15 converted to a usable form of medical marijuana for medical use is not considered part of
16 the plant upon harvesting.

17 ~~“Medical marijuana production facility” means a retail operation that produces food or~~
18 ~~other products containing medical marijuana.~~

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

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

25 “Possess or possession” means having physical control of an object, or control of the
26 premises in which an object is located, or having the power and intent to control an
27 object, without regard to whether the one in possession has ownership of the object.
28 Possession may be held by more than one person at a time. Use of the object is not
required for possession. The owner of a medical marijuana business shall be considered
in possession of the medical marijuana business at all times. The business manager of a
medical marijuana business shall be considered in possession of the medical marijuana
business at all times that the business manager is on the premises of the business or has
been designated by the owner as the business manager in the absence of the owner in
accordance with this chapter.

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

1
2 "Produce or production" means (i) all phases of growth of marijuana from seed to
3 harvest, (ii) combining marijuana with any other substance for distribution, including
4 storage and packaging for resale, or (iii) preparing, compounding, processing,
encapsulating, packing or repackaging, labeling or re-labeling of marijuana or its
derivatives whether alone or mixed with any amount of any other substance.

5 **6-14-3 License Required.**

6 (a) License Required. It shall be unlawful for any person to operate a medical marijuana
7 business without obtaining a license to operate pursuant to the requirements of this
8 chapter. This licensing requirement applies to all medical marijuana businesses
9 regardless of whether the business was established before or after the city adopted laws
10 regarding medical marijuana that exist on the effective date of this chapter and any
11 medical marijuana businesses established after the effective date of this chapter.

12 (1) Any medical marijuana business that commenced operation prior to August 2, 2010
13 the effective date of this chapter in a location where the business qualified as a use
14 permitted as a matter of right in the zone district as a "retail," "office/professional" or
15 "greenhouse/nursery" use and that has had obtained a valid sales and use tax license
16 from the city may continue in operation pending final action by the city manager on
17 the application submitted pursuant to this chapter, provided an application for a
18 medical marijuana business was submitted to the city by 5 p.m. November
19 before October 31, 2010.

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

28 (3) ~~Except for the provisions of Section 6-14-7, "Locations of Sale and Distribution~~
of Medical Marijuana," B.R.C. 1981, ~~a~~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
requirements imposed by any other federal, state, or local law including, by way of
example, a retail sales and use tax license, a retail food establishment license, or any
applicable zoning or building permit.

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

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

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

16 (e) License Non-Transferable. A medical marijuana business license is not transferable or
17 assignable, including without limitation, not transferable or assignable to a different
18 location, to a different type of business, or to a different owner or licensee. A medical
19 marijuana business license is valid only for the owner named thereon, the type of
20 business disclosed on the application for the license, and the location for which the
21 license is issued. The licensees of a medical marijuana business license are only those
22 persons disclosed in the application or subsequently disclosed to the city in accordance
23 with this chapter.

24 6-14-4 General Provisions.

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

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

(d) Costs of Inspection and Clean-Up. In the event the city incurs costs in the inspection or
clean-up of any medical marijuana business, or any person producing, distributing or

1 possessing marijuana, the business and responsible person shall reimburse the city all
2 actual costs incurred by the city for such inspection or clean-up.

3 **6-14-5 Application.**

4 (a) Application Requirements. An application for a medical marijuana business license shall
5 be made to the city on forms provided by the city manager for that purpose. The
6 applicant shall use the application to demonstrate its compliance with this chapter and
7 any other applicable law, rule or regulation. In addition to the information required by
8 ~~chapter~~ Chapter 4-1, "General Licensing Provisions," B.R.C. 1981, the application shall
9 include the following information:

10 (1) Name and address of the owner or owners of the medical marijuana business in
11 whose name the license is proposed to be issued.

12 A. If the owner is a corporation, the name and address of any officer or
13 director of the corporation, and of any person holding ~~ten percent or more~~
14 ~~of the~~ issued and outstanding capital stock of the corporation.

15 B. If the owner is a partnership, association or company, the name and
16 address of any person holding ~~ten percent or more of the an~~ interest
17 therein, and the managing members. If ~~the a~~ managing member is an
18 entity rather than an individual, the same disclosure shall be required for
19 each entity with an ownership interest until a managing member that is a
20 natural person is identified.

21 C. If the owner is not a natural person, the organizational documents for all
22 entities identified in the application, identification of the natural person
23 that is authorized to speak for the entity, and contact information for that
24 person.

25 (2) Name and address of:

26 A. Any business managers of the medical marijuana business, if the business
27 manager is proposed to be someone other than the owner.

28 B. All financiers of the medical marijuana business.

A. All primary caregivers that will consult with patients or distribute medical
marijuana at the medical marijuana business.

(3) A statement of whether or not any of the named owners, members, business
managers, financiers, primary caregivers, or persons named on the application
have been:

A. Denied an application for a medical marijuana business license pursuant to
this chapter or any similar state or local licensing law, rule or regulation,
or had such a license suspended or revoked.

- 1 B. Denied an application for a liquor license pursuant to Title 12, Article 47
2 or Article 46, C.R.S. or any similar state or local licensing law, or had
3 such a license suspended or revoked.
4 C. Convicted of a crime, other than a traffic offense, or completed any
5 portion of a sentence due to a criminal conviction.
6 D. Convicted of driving or operating other machinery under the influence of
7 alcohol, drugs or medication, driving while impaired or driving with
8 excessive alcohol content in violation of Section 42-4-1301, C.R.S. or any
9 comparable law, or a misdemeanor related to abuse of alcohol or a
10 controlled substance.

11 (4) Proof of ownership or legal possession of the licensed premises for a medical
12 marijuana business for the term of the proposed license.

13 (5) Proof of insurance as provided in Section 4-1-8, "Insurance Required," B.R.C.
14 1981.

15 (6) An operating plan for the proposed medical marijuana business including the
16 following information:

17 A. A description of the products and services to be provided by the medical
18 marijuana business, ~~including an indication of whether or not the business
19 proposes to engage in the production of retail sale of food or other
20 products for human ingestion, and whether any products or services will
21 be provided at a location different than the address on the license
22 application.~~

23 B. A dimensioned floor plan, clearly labeled, showing:

24 (i) The layout of the structure and the floor plan in which the medical
25 marijuana business is to be located;

26 (ii) The principal uses of the floor area depicted on the floor plan,
27 including, but not limited to, the areas where non-patients will be
28 permitted, private consulting areas, storage areas, retail areas, and
29 areas where medical marijuana will be distributed;

~~(iii) Production areas if any, which shall not be open to any persons other
30 than those employed by the business; and~~

~~(iv)(iii) Areas where any services other than the distribution of medical
31 marijuana are proposed to occur on the licensed premises; and-~~

~~(v)(iv) The separation of the areas that are open to persons who are not
32 patients from those areas open to patients.~~

1 C. A neighborhood responsibility plan that demonstrates how the business
2 will fulfill its responsibilities to the neighborhood, as good neighbors
3 including neighborhood outreach, methods for future communication, and
4 dispute resolution ~~with the surrounding neighborhood~~.

5 D. For cultivation facilities and medical marijuana-infused product
6 manufactures/manufacturers, medical marijuana businesses to operate as a
7 greenhouse/nursery or a manufacturing use; a plan that specifies the
8 methods to be used to prevent the growth of harmful mold and compliance
9 with limitations on discharge into the wastewater system of the city as set
10 forth in Chapter 11-3, "Industrial and Prohibited Discharges," B.R.C.
11 1981.

- 12 (7) A security plan indicating how the applicant will comply with the requirements of
13 this chapter and any other applicable law, rule or regulation. The security plan
14 includes specialized details of security arrangements and will be protected from
15 disclosure as provided applicant may submit the portions of such security plans
16 which include trade secrets or specialized security arrangements confidentially.
17 The city will not disclose documents appropriately submitted under the Colorado
18 Open Records Act sSection 24-72-203(2)(a)(VIII)1, C.R.S. ~~et seq.~~ C.R.S. if they
19 constitute confidential trade secrets or specialized security arrangements to any
20 party other than law enforcement agencies. Any document that the applicant
21 considers eligible for protection under the Colorado Open Records Act shall be
22 clearly marked as confidential and the reasons for such confidentiality shall be
23 stated on the document. If the city finds that such documents are subject to
24 inspection, it will attempt to provide at least twenty-four hour notice to the
25 applicant prior to such disclosure.
- 26 (8) A lighting plan showing the lighting outside of the medical marijuana business for
27 security purposes and compliance with applicable city requirements.
- 28 (9) A zoning confirmation form n area map obtained from the Citycity, drawn to
seale, indicating, to ascertain within a radius of one-quarter mile from the
boundaries of the property upon which the medical marijuana business is located,
the proximity of the property to any primary or secondary school or state licensed
child care center, to any other medical marijuana business, or to any residential
zone district.
- (10) Fingerprints and personal histories as may be specified on forms provided by the
city manager. This requirement shall apply to all owners, business managers,
financiers, and caregivers employed by or under contract to provide services to
the medical marijuana business, including all individuals who own have an interest
as described herein of any portion ~~ten percent or more~~ of the medical marijuana
business, directly or as a member, partner, or officer of a corporation, partnership,
association, or company.

1 (11) A plan for disposal of any medical marijuana or medical marijuana-infused
2 product that is not sold to a patient or primary caregiver in a manner that protects
3 any portion thereof from being possessed or ingested by any person or animal.

4 (12) A plan for ventilation of the medical marijuana business that describes the
5 ventilation systems that will be used to prevent any odor of medical marijuana off
6 the premises of the business. For medical marijuana businesses that grow medical
7 marijuana plants, such plan shall also include all ventilation systems used to
8 control the environment for the plants and describe how such systems operate
9 with the systems preventing any odor leaving the premises.

10 (13) A description of all toxic, flammable, or other materials regulated by a federal,
11 state, or local government with authority over the business that will be used or
12 kept at the medical marijuana business, the location of such materials and how
13 such materials will be stored.

14 (b) Evidence of Rehabilitation May Be Submitted. In the event the criminal history of an
15 owner, member, business manager, financier, primary caregiver, or other person named
16 on the application contains information regarding conviction of a crime or previous
17 denial or revocation of a license, that person may include with the license application any
18 information regarding such conviction, denial or revocation. Such information may
19 include but is not limited to evidence of rehabilitation, character references, and
20 educational achievements, especially those items pertaining to the period of time between
21 the applicant's last criminal conviction and the date of the application.

22 (c) Fee Required. Any application for a medical marijuana business permit shall be
23 accompanied by the application fee, criminal background check fee, the annual license
24 fee as required by Section 4-20-64, "Medical Marijuana Dispensaries," B.R.C. 1981,
25 and any other applicable fees.

26 (d) Inspection. An inspection of the proposed medical marijuana business by the City shall
27 be required prior to issuance of a license. Except for medical marijuana businesses
28 operating as allowed by Subsection 6-14-3(a), "License Required," B.R.C. 1981, such
inspection shall occur after the licensed premises are ready for operation, but prior to the
stocking of the business with any medical marijuana, and 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 can be operated in accordance with the application
submitted and the applicable requirements of the Code and any other applicable law, rule
or regulation.

(e) Investigation. For purposes of Section 12-43.3-303(2), C.R.S., the investigation of the
application by the city is not complete until the city manager has (i) determined the
application is complete, (ii) determined the medical marijuana business is prepared and
able to operate in compliance with all applicable laws, (iii) conducted an inspection of the
business, (iv) obtained all other information the city manager determines necessary to
make a decision whether to approve or deny the license application, or approve it with

1 conditions, and (v) prepared the documentation necessary to support the decision made
2 by the manager on the application.

3 (fe) 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
any other applicable law, rule or regulation, or that contains any false or incomplete
information. The conditions of an approval of a medical marijuana business license shall
include, at a minimum, operation of the business in compliance with all of the plans and
information made part of with the application.

10 **6-14-6 Persons Prohibited as Licensees and Business Managers.**

11
12 (a) It shall be unlawful for any of the following persons to have a financial interest in or
manage a medical marijuana business, and No license provided by this chapter shall be
13 issued to or held by, and no medical marijuana business shall be managed by:

- 14 (1) Any person until the annual fee for the license ~~therefor~~ has been paid;
- 15 (2) Any person not of good moral character;
- 16 (3) Any corporation, any of whose officers, directors, or stockholders holding an ten
~~percent or more~~ ownership interest are not of good moral character;
- 17 (4) Any partnership, association, or company, any of whose officers or members
18 holding an ten percent or more interest therein, or a managing member, are not of
good moral character;
- 19 (5) Any person employing, assisted by, or financed in whole or in part by any other
20 person who is not of good moral character;
- 21 (6) Any person unless such person's character, record, and reputation are satisfactory
to the city manager;
- 22 (7) Any natural person who is under twenty-one years of age;
- 23 (8) Any person who operates or manages a medical marijuana business contrary to
24 the provisions of this chapter, any other applicable law, rule or regulation, or
25 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.
- 26 (9) A licensed physician making patient recommendations;
- 27 (10) A person licensed pursuant to this article who, during a period of licensure, or
28 who, at the time of application, has failed to remedy an outstanding delinquency

1 for taxes owed, or an outstanding delinquency for judgments owed to a
2 government.

3 (11) A sheriff, deputy sheriff, police officer, or prosecuting officer, or an officer or
4 employee of the state licensing authority or a local licensing authority;

5 (12) A person whose authority to be a primary caregiver as defined in Section 25-1.5-
6 106(2), C.R.S. has been revoked by the state health agency; or

7 (13) A person that is a licensee for a location that is currently licensed as a retail food
8 establishment or wholesale food registrant.

9 (b) In making the evaluation of the good moral character of an individual identified on an
10 application or amendment thereof, the city manager shall consider the following:

11 (1) A criminal conviction shall not, by itself, be grounds for denying an application;

12 (2) Verification of or lack of ability to verify items disclosed by the individual;

13 (3) When an individual has a criminal history or a history including denial,
14 revocation or suspension of a license, the types and dates of violations; the
15 evidence of rehabilitation, if any, submitted by the individual; whether the crimes
16 are related to moral turpitude, substance abuse, or other crimes that may directly
17 affect the individual's ability to operate a medical marijuana business; or whether
18 the crimes are unrelated to the individual's ability to operate such a business;

19 (4) The evidence or lack of evidence regarding the ability of the individual to refrain
20 from being under the influence of intoxicating or controlled substances while
21 performing regular tasks and operating a medical marijuana business;

22 (5) Rules adopted by the city manager to implement this chapter;

23 (6) Law, rules and regulations applicable to evaluation of other types of licenses
24 issued by governments that consider the good moral character of the applicants;

25 (7) Any additional information the city manager may request of the individual if the
26 individual has a criminal history, an administrative or judicial finding of
27 violation of laws regarding use of alcohol or controlled substances, or items
28 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. It shall be unlawful to operate a medical marijuana business,
or to grow medical marijuana, outside of an enclosed building. 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.

1 (b) Location – Permitted Use in Zoning District. A medical marijuana business license may
2 be issued only if the business qualifies as a use permitted as a matter of right in the zone
3 district where it is proposed to be located as follows:

4 (1) as “personal services;” for a medical marijuana center; or

5 (2) as “greenhouse/nursery;” for a cultivation facility; or

6 (3) as “manufacturing,” for a cultivation facility or for a medical marijuana-infused
7 product manufacturer.

8 A medical marijuana business license also may be issued as a “service” use in a mixed
9 use district if permitted as a “use review” use, as defined in Chapter 9-16, “Definitions,”
10 B.R.C. 1981, in accordance with the following use table: **-[table is to be omitted from
11 chapter 6-14]

12 (c) No Medical Marijuana Business in Building with Residences or Residential Zone
13 Districts. A medical marijuana business license shall not be issued for a business in a
14 building which contains a residence, or within a dwelling unit within any zone district, or
15 within a residential zone districts, as described in Table 5-1 of Section 9-5-2, “Zoning
16 Districts.” B.R.C. 1981. This restriction shall not apply to a medical marijuana business
17 that is located within a building with a residence, or within a residential zone district,
18 under the following circumstances:

19 (1) the medical marijuana business and its licensees have been operating in
20 compliance with all provisions of this code, including without limitation
21 submitting a complete medical marijuana business application on or before
22 November 1, 2010; and

23 (2) the medical marijuana business obtained a sales and use tax license from the city
24 prior to November 5, 2009; and

25 (3) the medical marijuana business was legally established in compliance with Title 9
26 of this code prior to November 5, 2009.

27 (ed) No Retail Sales in Cultivation Facilities Greenhouse and Plant Nurseries or
28 Manufacturing. It shall be unlawful for any No person to permit shall allow retail sales
within a medical marijuana business that is a cultivation facility or medical marijuana-
infused product manufacturer, permitted as a “Greenhouse and Plant Nursery” or
“Manufacturing” use.

(d)(e) Distribution by Primary Caregiver. All distribution of medical marijuana to a patient or
primary caregiver shall be made directly by a primary caregiver to a patient or a primary
caregiver upon the licensed premises, or via personal delivery of the medical marijuana
by the primary caregiver from the licensed premises to the patient at the patient’s
residence as provided in this chapter.

1 (e)(f) Separation from Schools, Day Care Centers, or Other Medical Marijuana Uses. No
2 medical marijuana business license shall be issued for the following locations:

3 (1) Within ~~five hundred~~500 feet of any elementary, junior high, middle or high
4 primary or secondary school or state licensed day care center. Distances shall be
5 measured by the city on official maps as the radius from the closest points on the
6 perimeter of the applicant's property to the closest point of the property of the
7 school or day care center. This restriction shall not apply to any applicant who
8 applied for a sales and use tax business-license for a medical marijuana business
9 prior to November 5, 2009, such license was approved and the business has
continuously operated such business since December 1, 2009. In the discretion of
10 the city manager, a medical marijuana business license may be issued for a
11 location where either the medical marijuana business or the school or licensed day
12 care center is located within a parcel with several different users, and

13 A. the distance between the applicant's property and the property of the
14 school or day care center is less than seven hundred feet, and

15 B. the distance between the buildings in which the medical marijuana
16 business and the school or licensed day care are located is more than 750
17 feet apart, and

18 C. the city manager finds that the location of parking lots, sidewalks, streets,
19 landscaping and other appurtenances between the medical marijuana
20 business and the school or day care provide practical separation of at least
21 500 feet between the use and the medical marijuana business.

22 (2) Within ~~five hundred~~500 feet of three other medical marijuana businesses, except
23 that this limitation shall not apply in Industrial zones.

24 A. Distances shall be measured by the city on official maps as the radius from
25 the closet points on the perimeter of the applicant's property to the closest
26 point of the property of any other medical marijuana business.

27 B. This restriction shall not apply to any applicant who submits an
28 application for a license for a medical marijuana business prior to
September 1, 2010 in any location where the same applicant had obtained
a retail-sales and use tax license for the business on or before January 1,
2010, regardless of whether the actual sale or other distribution of medical
marijuana had commenced at that location as of January 1, 2010.

C. To determine the proximity to other medical marijuana businesses and the
priority of applications, businesses shall have priority in the following
order:

(i) Businesses that are open and operating,

(ii) Businesses whose applications have been approved; and

(iii) Applications for medical marijuana business licenses that have
been submitted by the applicant and declared complete by the city.

1 (iv) No other applications shall be considered "businesses" for this
2 determination.

3 ~~(3) Within a dwelling unit within any zone or within a residential zone district, as~~
4 ~~described in Table 5-1 of Section 9-5-2, "Zoning Districts," B.R.C. 1981.~~

5 (g) Limitations on Dual Licenses. A medical marijuana business license may not be issued
6 for (4) In any location which also is a part of the licensed premises of a business
7 holding a beverages license pursuant to Section 4-2-3, "Authority to Issue City Licenses,"
8 B.R.C. 1981.

9 (f)(h) Limitations on Personal Services Uses Medical Marijuana Centers: The following shall
10 be the minimum requirements for a medical marijuana center to qualify as use provided
11 for the "convenience of the neighborhood" as required in Title 9 for the personal services
12 use category:

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

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

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

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

25 **6-14-8 Requirements Related to Operation of Medical Marijuana Businesses.**

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

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

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

(d) Business Conducted within Building. Any and all production, distribution, possession,
storage, display, sales or other distribution of marijuana shall occur only within the

1 licensed premises of a medical marijuana business ~~an enclosed building~~ and shall not be
2 visible from the exterior of the building.

3 (e) Owner or Business Manager Required on Premises. No licensed premises shall be
4 managed by any person other than the licensee or the business manager listed on the
5 application for the license, or a renewal thereof. Such licensee or business manager shall
6 be on the premises and responsible for all activities within the licensed business during
7 all times when the business is open or in the possession of another person. In the event
8 the licensee intends to employ a business manager that was not identified on the license
9 or renewal application, the licensee shall report the name of such business manager to the
10 city, and such business manager shall submit to the city, at least 30 days prior to
commencing serving as the business manager, an application containing all of the
information required by this chapter and on the license application. Such licensee shall
report to the city any change in business managers at least 30 days prior to employing an
additional business manager, and no more than 5 days after a business manager is
released from such position.

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

14 (g) Use of Pesticides. No pesticides, insecticides or noxious substances which are prohibited
15 by applicable law for fertilization or production of edible produce shall be used on any
16 marijuana produced, possessed or dispensed by a medical marijuana business. A medical
marijuana business shall comply with all applicable law regarding use of pesticides,
including without limitation, Chapter 6-10 "Pesticide Use." B.R.C. 1981.

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

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

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

27 (k) Reporting Requirements. A medical marijuana business ~~licensee~~ shall report each transfer
28 or change of financial interest, business manager, financier and primary caregiver in the

1 license to the city at least thirty days before the transfer or change. ~~A report shall be~~
2 ~~required for change of the managing member and transfers of capital stock of a public~~
3 ~~corporation, or other change in ownership interest in a business entity; except that a~~
4 ~~report shall not be required for transfers of such stock totaling less than ten percent in any~~
5 ~~one year, but any transfer of a controlling interest shall be reported regardless of size. A~~
6 ~~medical marijuana business shall report sales and taxable transactions and file sales and~~
7 ~~use tax reports to the city monthly.~~

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

- 11 (1) The medical marijuana shall be packaged, sealed and labeled as provided in this
12 chapter. The label shall include the name of the patient to whom it is being
13 delivered;
- 14 (2) The primary caregiver delivering the medical marijuana shall have in the primary
15 caregiver's possession documents evidencing (i) the patient identified on each
16 package of medical marijuana has designated the person as the patient's primary
17 caregiver, (ii) the patient requested delivery of medical marijuana by the primary
18 caregiver, (iii) the amount of the requested delivery, (iv) the date of the requested
19 delivery, and (v) if more than two ounces is being delivered to a patient, a copy of
20 the doctor's recommendation for that patient specifying the additional amount of
21 medical marijuana medicinally necessary for that patient.
- 22 (3) In no event shall the primary caregiver be in possession of more than eight ounces
23 of a usable form of medical marijuana for delivery outside of the licensed
24 premises.

25 (m) Delivery Between Medical Marijuana Businesses. It shall be unlawful for any person to
26 transport medical marijuana, except as specifically allowed by application applicable law,
27 unless the medical marijuana being transported meets the following requirements:

- 28 (1) All medical marijuana-infused products are hand-packaged, sealed and labeled as
provided in this chapter, and the products stored in closed containers that are
labeled as provided in this section.
- (2) All medical marijuana in a usable form for medicinal use are packaged, and stored
in closed containers that are labeled as provided in this section.
- (3) Each container used to transport medical marijuana is labeled with the amount of
medical marijuana or medical marijuana-infused products in the container. The
label shall include the name and address of the medical marijuana business that
the medical marijuana is being transported from and the name and address of the
medical marijuana center or medical marijuana-infused product manufacturer that
the medical marijuana is being transported to. The label shall be shown to any
law enforcement officer that requests to see the label.

1
2 (4) Unless otherwise specifically allowed by applicable law, medical marijuana may
3 be transported only:

4 A. ~~between from a cultivation facility to the a medical marijuana center or~~
5 medical marijuana-infused product manufacturer; and

6 B. which center or manufacturer is owned by the same person as owns the
7 cultivation facility; or

8 C. ~~owned by the owner of the cultivation facility, or between a one medical~~
9 marijuana center to another center or between a medical marijuana center.

10 (n) Disposal of Medical Marijuana and Marijuana Byproducts. All medical marijuana and
11 any product containing a usable form of marijuana shall be disposed of in a manner that
12 prevents any person or animal from being able to ingest any marijuana.

13 (o) Possession of Mature Flowering Plants. No more than one-half of the medical marijuana
14 plants within a medical marijuana business or possessed by a patient may be mature,
15 flowering plants producing a usable form of marijuana.

16 **6-14-9 Right of Entry – Records to be Maintained.**

17 (a) Records to be Maintained. Each licensee shall keep a complete set of books of account,
18 invoices, copies of orders and sales, shipping instructions, bills of lading, weigh bills,
19 correspondence, ~~bank statements including cancelled checks and deposit slips,~~ and all
20 other records necessary to show fully the business transactions of such licensee. Receipts
21 shall be maintained in a computer program or by pre-numbered receipts and use for each
22 sale. The records of the business shall clearly track medical marijuana product inventory
23 purchased and sales and disposal thereof to clearly track revenue from sales of any
24 medical marijuana from other paraphernalia or services offered by the medical marijuana
25 business. The licensee shall also maintain inventory records evidencing that no more
26 marijuana was within the medical marijuana business than allowed by applicable law for
27 the number of patients who designated the medical marijuana business owners as their
28 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.

(b) Separate Bank Accounts. The licensee shall maintain a separate ~~checking~~ bank account in
the name of the business for the entire operation of each medical marijuana business,
including all deposits and disbursements. The revenues and expenses of the medical
marijuana business shall not be commingled in a checking account with any other
business or individual person's deposits or disbursements.

1 (cb) Disclosure of Records. By accepting the medical marijuana business license, the licensee
2 is providing consent to disclose the information required by this chapter, including
3 information about patients and caregivers. Any records provided by the licensee that
4 includes patient or caregiver confidential information may be submitted in a manner that
5 maintains the confidentiality of the documents under the Colorado Open Records Act, §
6 24-72-201, *et seq.* C.R.S. or other applicable law. Any document that the applicant
7 considers eligible for protection under the Colorado Open Records Act shall be clearly
8 marked as confidential and the reasons for such confidentiality shall be stated on the
9 document. In the event that the licensee does appropriately submit documents so as not
10 to be disclosed under the Colorado Open Records Act, the city shall not disclose it to
11 other parties who are not agents of the city, except law enforcement agencies. If the city
12 finds that such documents are subject to inspection, it will provide at least twenty-four
13 hour notice to the applicant prior to such disclosure

14 (de) Audits. The city may require an audit to be made of such books of account and records
15 on such occasions as it may consider necessary. Such audit may be made by an auditor to
16 be selected by the city that shall likewise have access to all books and records of such
17 licensee. The expense of any audit determined necessary by the city shall be paid by said
18 licensee.

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

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

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

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

1 of the RECs or other renewable energy acquisition program to disclose the records of the
2 licensee to the city.

3 **6-14-10 Requirements Related to Security of Licensed Premises and Inventory.**

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

- 6 (a) Cameras. The medical marijuana business shall install and use security cameras to
7 monitor all areas of the licensed premises and where persons may gain or attempt to gain
8 access to marijuana or cash maintained by the medical marijuana business. Recordings
9 from security cameras shall be maintained for a minimum of seven ~~dayst~~days ~~two hours~~ in a
10 secure off-site location.
- 11 (b) Use of Safe for Storage. The medical marijuana business shall install and use a safe for
12 overnight storage of any processed marijuana, and cash on the licensed premises, with the
13 safe being incorporated into the building structure or securely attached thereto.
- 14 (c) Alarm System. The medical marijuana business shall install and use a monitored alarm
15 system.
- 16 (d) Report of Criminal Activity. Reports of all criminal activities or attempts thereof shall be
17 reported to the Boulder Police Department within 12 hours of occurrence.

18 **6-14-11 Requirements for Public Health and Labeling.**

- 19 (a) ~~Ingestible Items~~Medical Marijuana-Infused Products. The production of any medical
20 marijuana ~~infused product~~ distributed by a medical marijuana business in an edible form,
21 or other form which is intended to enter the body of a patient, shall be prepared at a
22 medical marijuana ~~production facility~~infused product manufacturer that meets all
23 requirements of a retail food establishment as set forth in §Section 25-4-1601, et seq.,
24 C.R.S. the Food Protection Act. The production of any product containing medical
25 marijuana shall comply with all health and safety standards thereof. The licensee shall
26 comply with all applicable state and local health regulations related to the production,
27 preparation, labeling, and sale of prepared food items.
- 28 (b) Labeling and Packaging Requirements. All medical marijuana sold or otherwise
distributed by the licensee shall be packaged and labeled in a manner that advises the
purchaser that it contains marijuana, specifies the amount of marijuana in the product,
and that the marijuana is intended for medical use solely by the patient to whom it is sold,
and that any re-sale or re-distribution of the medical marijuana to a third person is
prohibited. The label shall include all ingredients contained in the product, in order from
most abundant to least abundant. The label shall identify potential food allergy
ingredients, including milk, eggs, fish, shellfish, tree nuts, peanuts, wheat and soybeans.
The label shall identify all chemical additives, including without limitation pesticides,
herbicides, and fertilizers that were used in the production of the medical marijuana used

1 in the product. The product shall be packaged in a sealed container that cannot be opened
2 without obvious damage to the packaging. The label shall contain the following warning:

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

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

12 6-14-12 Compliance with Other Applicable State Law.

- 13 (a) Strictest Application of State Law Applies. Except as may be provided otherwise in this
14 chapter, or rules adopted pursuant to this chapter or interpretations by the city, any ~~To the~~
15 extent the state has adopted or adopts in the future any additional or stricter law or
16 regulation adopted by the state governing the production, possession, or distribution of
17 marijuana for medical use that does not permit what this chapter prohibits, the additional
18 or stricter regulation shall also apply to control the establishment or operation of any
19 medical marijuana businesses in the city. Provided however, if a state law or regulation
20 permits what this chapter prohibits, this chapter shall prevail. Compliance with any
21 applicable state law or regulation that does not permit what this chapter prohibits shall be
22 deemed an additional requirement for issuance or denial of any license under this chapter,
23 and non-compliance with any applicable state law or regulation shall be grounds for
24 revocation or suspension of any license issued under this chapter. No medical marijuana
25 business shall continue operations in violation of an additional or stricter state law or
26 regulation, which does not permit what this chapter prohibits, applicable within the city
27 after the effective date of the state law or regulation.

- 28 (b) Revocation of License upon Denial or Revocation of State License or Applicable Federal
Prohibition. A medical marijuana business license is a revocable privilege, and no holder
thereof shall be deemed to have acquired any property interest therein. If the state
prohibits the production, possession, or other distribution of marijuana through medical
marijuana businesses, or if a medical marijuana business is denied a medical marijuana
business license or has such license revoked pursuant to Section 12-43.3-101, et seq.,
C.R.S. or if a court of competent jurisdiction determines the federal government's
prohibition of the production, possession, or other distribution of marijuana through
medical marijuana businesses supersedes state law, any license issued pursuant to this
chapter shall be deemed to be immediately revoked by operation of law, with no ground
for appeal or other redress on behalf of the licensee.

1 **6-14-13 Prohibited Acts.**

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

- 3 (1) Violate any provision of this Code or any condition of an approval granted
4 pursuant to this Code, or any applicable law, rule or regulation applicable to the
5 use of medical marijuana or the operation of a medical marijuana business;
- 6 (2) Permit any other person to violate any provision of this Code or any condition of
7 an approval granted pursuant to this Code, or any law, rule or regulation
8 applicable to the use of medical marijuana or the operation of a medical marijuana
9 business;
- 10 (3) Distribute medical marijuana without a medical marijuana business license or
11 outside of the licensed premises of the medical marijuana business;
- 12 (2)(4) Obtain marijuana from a person who is not licensed as a medical marijuana
13 business; ~~for use by a patient and subsequently distribute any portion of such~~
14 ~~marijuana to another person.~~
- 15 (3)(5) Take marijuana for medical use in any form in plain view of, or in a place open
16 to, the general public. Places open to the general public include without
17 limitation, but are not limited to, any property owned, leased or used by a public
18 entity, retail malls, businesses open to the public, common areas of a building, or
19 in vehicles visible from a place open to the general public;
- 20 (4)(6) ~~Possess, distribute, produce, Smoke, use or ingest marijuana or alcoholic~~
21 ~~beverages or a controlled substance on the premises of the medical marijuana~~
22 ~~business;~~
- 23 (5)(7) Produce, distribute or possess more medical marijuana than allowed in this
24 chapter or other applicable law;
- 25 (6)(8) Produce, distribute or possess medical marijuana, or own or manage a medical
26 marijuana business in which another produces, distributes, or possesses medical
27 marijuana, in violation of this chapter or any other applicable law;
- 28 (7-9) Make any changes, or for the licensee to allow any changes, to in the items
included in the plans submitted with the license application ~~to~~ and approved by the
city, or the individuals identified in the application, pursuant to this chapter,
without prior approval of the city;
- (8)10) ~~Allow medical marijuana within a medical marijuana business in a location~~ Own,
manage or possess a medical marijuana business where medical marijuana is
outside of the licensed premises ~~portion of such business.~~ It shall be a violation of
this subsection for all persons that allow medical marijuana within the business,
but outside of the licensed premises, that are either in possession of the medical

1 ~~marijuana or responsible for the licensed premises at the time the medical~~
2 ~~marijuana is within the business but outside of the licensed premises.~~ It shall be
3 an affirmative defense to a violation of this section if the medical marijuana
4 outside of the licensed premises was (i) in the custody and control of a patient, (ii)
5 purchased by that patient from the business and the patient has not left the
6 business since purchase, and (iii) the amount of medical marijuana in the custody
7 and control of the patient does not exceed the amount the patient may possess
8 lawfully;

- 9
- 10 (911) Possess more than six marijuana plants and two ounces of a usable form of
11 marijuana without a medical marijuana business license. It shall be an affirmative
12 defense to this charge if a legitimate ~~the~~ recommendation from a qualified ~~the~~
13 physician of the patient for whom the marijuana is being grown includes a
14 recommendation for a specific amount of marijuana in excess of six marijuana
15 plants or two ounces of a usable form of marijuana as being medically necessary
16 to address the patient's debilitating medical condition;
- 17 (~~1012~~) Possess medical marijuana that is not in a sealed package in a place where the
18 possessor is not authorized to possess or consume medical marijuana while in
19 control of a motor vehicle.
- 20 (13) Dispose of medical marijuana or any byproduct of medical marijuana containing
21 marijuana in a manner contrary to this chapter;
- 22 (14) Distribute a medical marijuana plant to any person that is not licensed as a
23 medical marijuana cultivation facility;
- 24 (15) Possess a number of mature flowering plants producing a usable form of
25 marijuana that is more than one-half of the medical marijuana plants that are
26 lawfully possessed by the person;
- 27 (16) Distribute, or own or manage a medical marijuana business where distribution
28 occurs, from a medical marijuana business of a medical marijuana-infused
product that was produced in a manner that is not in compliance with this chapter;
- (17) Possess medical marijuana, or own or manage a medical marijuana business
where there is possession of medical marijuana, by a person who is not a patient,
a primary caregiver, or a licensee of a medical marijuana business;
- (18) Possess or operate a medical marijuana business in violation of this chapter;
- (19) Possess or operate a medical marijuana business in a location or in a manner for
which a medical marijuana business license is prohibited by the terms of this
chapter;

1 (20) Attempt to use or display a medical marijuana business license at a different
2 location or for a different business entity than the location and business entity
3 disclosed on the application for the issued license;

4 (21) Manufacture, distribute or possess any medical marijuana at a location without a
5 medical marijuana business license prior to passing the inspection required by this
6 chapter; provided however, this subparagraph shall not apply to medical
7 marijuana businesses qualifying for the exception of Subsection 5-14-3(a)
8 "License Required," B.R.C. 1981;

9 (22) Deliver medical marijuana to a patient or between medical marijuana businesses
10 except in strict compliance with Section 6-14-8;

11 (23) Operate a medical marijuana business in a manner that is not consistent with the
12 items disclosed in the application for the medical marijuana business license;

13 (24) Possess or use medical marijuana:

14 (A) on the grounds of a school, university, or in a school bus; or

15 (B) in a vehicle, aircraft, or motorboat;

16 (25) Operate or be in physical control of any vehicle, aircraft, or motorboat while
17 under the influence of medical marijuana.

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

20 **6-14-14 Suspension or Revocation of License.**

21 (a)(e) ~~Suspension or Revocation of Licenses.~~ A medical marijuana business license may be
22 suspended or revoked for any of the following violations:

23 (1) Conviction of the business, a licensee, or any owner, business manager, financier
24 or primary caregiver of any violation of this chapter or any other applicable law,
25 rule or regulation applicable to the use of medical marijuana or operation of a
26 medical marijuana business;

27 (2) Misrepresentation or omission of any material fact, or false or misleading
28 information, on the application or any amendment thereto, or any other
information provided to the city related to the medical marijuana business;

(3) Conviction of any ~~licensee~~ person named on the application or amendment thereto
of a crime which, if occurring prior to submittal of the application, could have
been cause for denial of the license application;

- 1 (4) ~~Allowing Distribution~~ of medical marijuana, including without limitation but not
2 ~~limited to~~ delivery to a patient, in violation of this chapter or any other applicable
3 law, rule or regulation;
- 4 (5) ~~Allowing the e~~Operation of a medical marijuana business in violation of the
5 specifications of the license application, any conditions of approval by the city, or
6 any violation of this chapter or any other applicable law, rule or regulation
applicable to the use of medical marijuana or operation of a medical marijuana
business;
- 7 (6) Failure to maintain, or provide to the city upon request, any books or records
8 required by this chapter;
- 9 (7) Failure to timely notify the city and to complete necessary city forms for changes
10 in financial interest, business managers, financier or primary care giver;
- 11 (8) Temporary or permanent closure, or other sanction of the business, by the city, or
12 by the County or State Public Health Department or other governmental entity
13 with jurisdiction, for failure to comply with health and safety provisions of this
14 chapter or otherwise applicable to the business or any other applicable law;
- 15 (9) Revocation or suspension of another medical marijuana business license.

16 **6-14-154- Term of License - Renewals - Expiration of License if no Sales Tax Return.**

- 17 (a) Term of License. A medical marijuana business license shall be valid for one year. The
18 license shall expire on the last day of the month in which the license is issued of the year
19 following issuance or renewal of the license. For the first license issued for a medical
20 marijuana business, the city manager may designate an expiration date in excess of one
21 year, but no more than twenty-four months, to facilitate the administration by the city of
22 renewals of such licenses.
- 23 (b) Renewal of License. The licensee shall apply for renewal of the medical marijuana
24 business license at least 45~~sixty~~ days before the expiration of the license. The licensee
25 shall apply for renewal using forms provided by the city.
- 26 (1) The renewal license fee shall accompany the renewal application. Such fee is
27 non-refundable.
- 28 (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.

1 (3) In the event any person who has an ownership interest as described in the
2 disclosures made to the city pursuant to this chapter, or any business manager,
3 financier, caregiver, or employee has any criminal violations since such
4 disclosure, the renewal application shall include the name of the violator, the date
5 of the violation, the court and case number where the violation was filed and the
6 disposition of the violation with the renewal application.

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

14 (5) The city shall not accept renewal applications after the expiration of the license.

15 (6) In the event there have been allegations of violations of this code by any of the
16 licensees or the business submitting a renewal application, the city may hold a
17 hearing pursuant to Chapter 1-3 "Quasi-Judicial Hearings," B.R.C. 1981, prior to
18 approving the renewal application. The hearing shall be to determine whether the
19 application and proposed licensees comply with this chapter, and whether the
20 operation of the business has been in compliance with this code. If the
21 application and the licensees do not meet the requirements of this chapter, or the
22 business has been operated in the past in violation of this code, the renewal
23 application may be denied, or issued with conditions.

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

(d) Expiration of License. Expiration of a medical marijuana business license for any reason
including without limitation, pursuant to Subsection (c) above shall be considered an
inactive local license as described in Section 12-43.3-312, C.R.S.

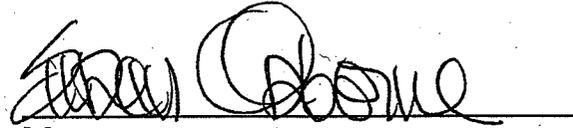
6-14-165 City Manager Authorized to Issue Rules.

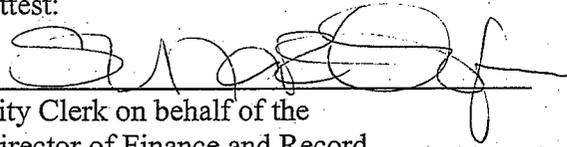
The city manager may adopt rules and regulations that the manager determines are reasonably
necessary to implement the requirements of this chapter.

Section 2. This ordinance is necessary to protect the public health, safety, and welfare
of the residents of the city, and covers matters of local concern.

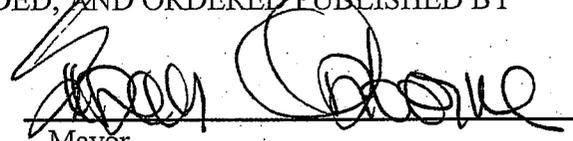
1 Section 3. The City Council deems it appropriate that this ordinance be published by title
2 only and orders that copies of this ordinance be made available in the office of the city clerk for
3 public inspection and acquisition.

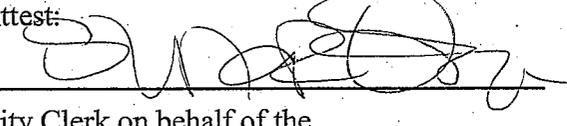
4 INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY
5 TITLE ONLY this 4th day of January, 2011.

6
7 
8 Mayor

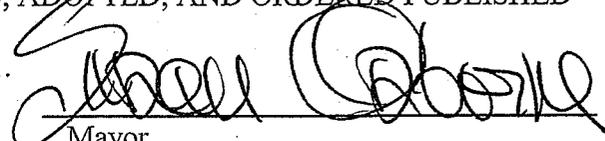
8 Attest:
9 
10 City Clerk on behalf of the
11 Director of Finance and Record

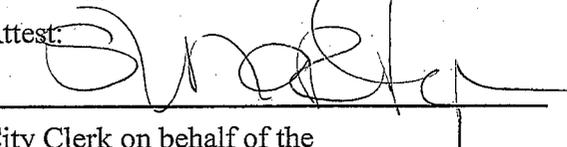
12
13 READ ON SECOND READING, AMENDED, AND ORDERED PUBLISHED BY
14 TITLE ONLY this 18th day of January, 2011.

15
16 
17 Mayor

18 Attest:
19 
20 City Clerk on behalf of the
21 Director of Finance and Record

22 READ ON THIRD READING, PASSED, ADOPTED, AND ORDERED PUBLISHED
23 BY TITLE ONLY this 1st day of February, 2011.

24
25 
26 Mayor

27 Attest:
28 
City Clerk on behalf of the
Director of Finance and Record