

SPONSORED BY: MAYOR DOWNING

COUNCILMAN'S BILL

ORDINANCE NO.

No. CB-1769  
Series of 2012

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Series of 2012

A BILL FOR AN ORDINANCE REPEALING AND REENACTING ARTICLE 14 OF CHAPTER 18 OF THE NORTHGLENN MUNICIPAL CODE REGARDING MEDICAL MARIJUANA

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

Section 1. Article 14 of Chapter 18 of the Northglenn Municipal Code is repealed and reenacted to read as follows:

#### **ARTICLE 14**

#### **Medical Marijuana**

#### **Section 18-14-1. Findings and Legislative Intent.**

The City Council makes the following legislative findings:

(a) The City Council finds that on November 7, 2000, the voters of the State of Colorado approved Amendment 20. Amendment 20 added Section 14 of Article XVIII to the Colorado Constitution and created a limited exception from criminal liability under Colorado law (as opposed to federal law) for seriously ill persons who are in need of marijuana for specified medical purposes and who obtain and use medical marijuana under the limited, specified circumstances described in Amendment 20.

(b) The City Council finds and determines that the Colorado Medical Marijuana Code, C.R.S. § 12-43.3-101, *et seq.*, clarifies Colorado law regarding the scope and extent of Amendment 20 to the Colorado Constitution.

(c) The City Council finds and determines that the Colorado Medical Marijuana Code now provides a statutory framework for the regulation of medical marijuana centers, cultivation facilities and marijuana-infused product manufacturing operations.

(d) The City Council finds and determines that, by requiring that medical marijuana businesses be operated in a manner that minimizes potential health and safety risks, it mitigates the negative impacts that a medical marijuana center might have on surrounding properties and persons.

(e) The City Council finds and determines that through this Ordinance it intends to establish a nondiscriminatory mechanism by which the City can control, through appropriate

regulation, the location and operation of medical marijuana centers, optional premises cultivation operations, or medical marijuana-infused product manufacturing facilities within the City.

(f) The City Council recognizes and affirms the protections afforded by Article XVIII, Section 14 of the Colorado Constitution and desires to affirm the ability of patients and primary caregivers to otherwise be afforded the protections of Article XVIII, Section 14 of the Colorado Constitution and C.R.S. § 25-1.5-106, as the same may be amended from time to time.

**Section 18-14-2.**     Purpose.

(a) The purpose of this Article is to implement the provisions of the Colorado Medical Marijuana Code, C.R.S. § 12-43.3-101, which authorizes the licensing and regulation of medical marijuana businesses and affords local government the option to determine whether or not to allow medical marijuana businesses within their respective jurisdictions and to adopt licensing requirements that are supplemental to or more restrictive than the requirements set forth in state law.

(b) By adoption of this Article, the City Council does not intend to authorize or make legal any act that is not permitted under federal or state law.

**Section 18-14-3.**     Incorporation of state law.

The provisions of the Colorado Medical Marijuana Code, and any rules and regulations promulgated thereunder, are incorporated herein by reference except to the extent that more restrictive or additional regulations are set forth in this Article.

**Section 18-14-4.**     Authority.

The City Council hereby finds, determines and declares that it has the power and authority to adopt this Article pursuant to:

- (a) The Colorado Medical Marijuana Code, C.R.S. § 12-43.3-101, *et seq.*;
- (b) The Local Government Land Use Control Enabling Act, Article 20 of Title 29, C.R.S.;
- (c) Part 3 of Article 23 of Title 31, C.R.S. (concerning municipal zoning powers);
- (d) Section 31-15-103, C.R.S. (concerning municipal police powers);
- (e) Section 31-15-401, C.R.S. (concerning municipal police powers);
- (f) Section 31-15-501, C.R.S. (concerning municipal authority to regulate businesses).

**Section 18-14-5. Definitions.**

(a) For purposes of this Article, the following terms shall have the following meanings:

*Alcohol beverage* shall have the meaning ascribed to such term in the Colorado Liquor Code.

*Applicant* shall mean any person or entity who has submitted an application for a license or renewal of a license issued pursuant to this Article. If the applicant is an entity and not a natural person, *applicant* shall include all persons who are the members, managers, officers and directors of such entity.

*Cultivation* or *cultivate* shall mean the process by which a person grows a marijuana plant.

*Financial interest* shall mean any ownership interest, including, without limitation, a membership, directorship or officership; or any creditor interest, whether or not such interest is evidenced by any written document.

*Good cause* (for the purpose of refusing or denying a license renewal under this Article) shall mean: (1) the licensee has violated, does not meet, or has failed to comply with any of the terms, conditions or provisions of this Article and any rule and regulation promulgated pursuant to this Article; (2) the licensee has failed to comply with any special terms or conditions that were placed on its license at the time the license was issued, or that were placed on its license in prior disciplinary proceedings or that arose in the context of potential disciplinary proceedings; or (3) the licensee's medical marijuana center, optional premises cultivation operation, or medical marijuana-infused product manufacturing operation has been operated in a manner that adversely affects the public health, welfare or safety of the immediate neighborhood in which the medical marijuana center, optional premises cultivation operation, or medical marijuana-infused product manufacturing operation is located. Evidence to support such a finding can include: (i) a continuing pattern of offenses against the public peace, as defined in Article 4 of Chapter 9 of this Code; (ii) a continuing pattern of drug-related criminal conduct within the premises of the medical marijuana center, optional premises cultivation operation, or medical marijuana-infused product manufacturing operation or in the immediate area surrounding the medical marijuana center, optional premises cultivation operation, or medical marijuana-infused product manufacturing operation; or (iii) a continuing pattern of criminal conduct directly related to or arising from the operation of the medical marijuana center, optional premises cultivation operation, or medical marijuana-infused product manufacturing operation.

*License* shall mean a document issued by the City officially authorizing an applicant to operate a medical marijuana center, optional premises cultivation operation, or medical marijuana-infused product manufacturing operation pursuant to this Article.

*Licensee* shall mean the person to whom a license has been issued pursuant to this Article.

*Licensed premises* shall mean the premises specified in an application for a license under this Article, which is owned or in possession of the licensee and within which the license is authorized to cultivate, manufacture, distribute, or sell medical marijuana or medical marijuana-infused products in accordance with state and local law.

*Local licensing authority* means the City Council of the City of Northglenn.

*Medical marijuana* means marijuana that is grown and sold for a purpose authorized by Article XVIII, § 14 of the Colorado Constitution.

*Medical marijuana business* shall mean a medical marijuana center, optional premises

cultivation operation, or medical marijuana-infused products manufacturer as defined in the Colorado Medical Marijuana Code.

*Minor patient* shall mean a patient less than eighteen (18) years of age.

*Patient* shall mean a person who has a debilitating medical condition as defined in Article XVIII, § 14(1)(c) of the Colorado Constitution.

*Person* means a natural person or business entity, such as, without limitation, a corporation, limited liability company, association, firm, joint venture, estate, trust, business trust, syndicate, fiduciary, partnership or any group or combination thereof.

(b) In addition to the definitions provided in Subsection (a) hereof, other terms used in this Article shall have the meaning ascribed to them in Article XVIII, § 14 of the Colorado Constitution, or the Colorado Medical Marijuana Code, and such definitions are hereby incorporated into this Article by reference.

**Section 18-14-6.**      License required.

It shall be unlawful for any person to establish or operate a medical marijuana business in the City without first having obtained a license for such business from the local licensing authority. Such license shall be kept current at all times, and the failure to maintain a current license shall constitute a violation of this Section.

**Section 18-14-7.**      Requirements of application for license; payment of application fee; denial of license.

(a) A person seeking a license or renewal of a license issued pursuant to this Article shall submit an application to the local licensing authority on forms provided by the City Clerk. At the time of application, each applicant shall pay a nonrefundable application fee to defray the costs incurred by the City for background investigations and inspection of the proposed premises, as well as any other costs associated with the processing of the application. In addition, the applicant shall present for recording one (1) of the following forms of identification:

- (1) an identification card issued in accordance with Section 42-2-302, C.R.S.;
- (2) a valid state driver's license;
- (3) a military identification card;
- (4) an alien registration card; or
- (5) a valid passport.

(b) The applicant shall also provide the following information on a form approved by, or acceptable to the City, which information shall be required for the applicant, all employees, including the proposed manager of the medical marijuana business, and all persons having a ten percent (10%) or more financial interest in the medical marijuana business that is the subject of the application or, if the applicant is an entity, having a ten percent (10%) or more financial interest in the entity:

- (1) name, address, date of birth;
- (2) a complete set of fingerprints;
- (3) an acknowledgment and consent that the City will conduct a background investigation, including a criminal history check, and that the City will be entitled to full and

complete disclosure of all financial records of the medical marijuana business, including records of deposit, withdrawals, balances and loans;

(4) if the applicant is a business entity, information regarding the entity, including, without limitation, the name and address of the entity, its legal status, and proof of registration with, or a certificate of good standing from, the Colorado Secretary of State, as applicable;

(5) the name and complete address of the proposed medical marijuana business, including the facilities to be used in furtherance of such business, whether or not such facilities are, or are planned to be, within the territorial limits of the City;

(6) if the applicant is not the owner of the proposed licensed premises, a notarized statement from the owner of such property authorizing the use of the property for a medical marijuana center or cultivation facility;

(7) a copy of any deed reflecting the ownership of, or lease reflecting the right to possess, the proposed licensed premises;

(8) evidence of a valid sales tax license for the business;

(9) if the medical marijuana center will be providing medical marijuana in edible form, evidence of at a minimum a pending application for any food establishment license or permit that may be required by the State;

(10) a "to scale" diagram of the premises, showing, without limitation, a site plan, building layout, all entry ways and exits to the center and cultivation facility, loading zones and all areas in which medical marijuana will be stored, grown or dispensed;

(11) a comprehensive business operation plan for the medical marijuana business which shall contain, without limitation, the following:

a. a security plan meeting the requirements of Section 18-14-22 of this Article,

b. a description by category of all products to be sold,

c. a signage plan that is in compliance with all applicable requirements of this Code and other applicable provisions of the Northglenn Municipal Code, and

d. a plan for the disposal of medical marijuana and related byproducts to ensure that such disposal is in compliance with all applicable federal, state and local laws or regulations;

(12) for medical marijuana-infused products manufacturing operation license applications, a copy of any and all contracts between the applicant and any medical marijuana cultivation operation from which it will be purchasing medical marijuana for use in the production of medical marijuana-infused products; and

(13) any additional information that the local licensing authority reasonably determines to be necessary in connection with the investigation and review of the application.

(c) The applicant shall verify the truthfulness of the information required by this Section by the applicant's signature on the application.

(d) A license issued pursuant to this Article does not eliminate the need for the licensee to obtain other required permits or licenses related to the operation of the medical marijuana center, cultivation facility and medical marijuana-infused products manufacturing operation, including, without limitation, any development approvals or building permits required by this Article and any other applicable provisions of the Northglenn Municipal Code.

(e) Upon receipt of a completed application, the local licensing authority shall circulate the application to all affected service areas and departments of the City to determine whether the application is in full compliance with all applicable laws, rules and regulations.

(f) Upon receipt of an application for a new license, the local licensing authority shall schedule a public hearing on the application to be held not less than thirty (30) days after the date of the completed application. The local licensing authority shall cause a notice of such hearing to be posted in a conspicuous place upon the proposed licensed premises published in a newspaper of general circulation within the City not less than ten (10) days prior to the hearing. Such posted notice given by posting shall include a sign of suitable material, not less than twenty two (22) inches wide and twenty six (26) inches high, composed of letters of not less than one (1) inch in height. Both the posted and the published notice shall state the type of license applied for, the date of the hearing, the name and address of the applicant, and such other information as may be required to fully apprise the public of the nature of the application. The notice shall also contain the names and addresses of the officers, directors and/or managers of the facility to be licensed.

(g) Not less than five (5) days prior to the date of the public hearing for a new license, the local licensing authority shall cause its preliminary findings based on its investigation to be known in writing to the applicant and other parties in interest. The local licensing authority shall deny any application that does not meet the requirements of this Article. The local licensing authority shall also deny any application that contains any false, misleading or incomplete information. The local licensing authority shall also deny or refuse to issue a license for good cause. Denial of an application for a license shall not be subject to further administrative review but only to review by a court of competent jurisdiction.

(h) Before entering a decision approving or denying the application for a local license, the local licensing authority may consider, except where this Article specifically provides otherwise, the facts and evidence adduced as a result of its investigation, as well as any other facts pertinent to the type of license for which application has been made, including the number, type and availability of medical marijuana centers, optional premises cultivation operations, or medical marijuana-infused products manufacturers located in or near the premises under consideration, and any other pertinent matters affecting the qualifications of the applicant for the conduct of the type of business proposed. The local licensing authority shall issue its decision within thirty (30) days of the completion of the public hearing thereon. Such decision shall be by Resolution, and shall state the reasons for the decision. The Resolution shall be sent via certified mail to the applicant to the address shown in the application.

(i) The City shall, prior to issuance of the license, perform an inspection of the proposed licensed premises, including, without limitation, the proposed cultivation facility, if applicable, to determine compliance with any applicable requirements of this Article or other applicable requirements of the Northglenn Municipal Code.

**Section 18-14-8. Medical Marijuana Centers.**

(a) With the exception of sales pursuant to those contracts described in Subsection 18-14-8(c) below, a licensed medical marijuana center may sell marijuana and marijuana-infused products only to registered patients or primary caregivers.

(b) The medical marijuana offered for sale and distribution must be labeled with a list of all chemical additives including non-organic pesticides, herbicides and fertilizers used in cultivation and production.

(c) With the exception of medical marijuana-infused products, at least seventy percent (70%) of the medical marijuana offered for sale and/or distribution must be comprised of medical marijuana grown at the medical marijuana center's own optional premises cultivation licensed facility.

(d) Medical marijuana centers may not be co-located with facilities used to prepare, produce or assemble food, whether for medical or nonmedical purposes.

**Section 18-14-9. Medical Marijuana-Infused Products Manufacturer.**

(a) All medical marijuana-infused products shall be prepared at a licensed premises that is used exclusively for the manufacture and preparation of medical marijuana-infused products. The equipment used in manufacturing medical marijuana-infused products shall be used exclusively for such manufacture and preparation of infused products.

(b) All medical marijuana-infused products shall be sealed and conspicuously labeled in compliance with state law. A medical marijuana-infused product manufacturer may not include medical marijuana from more than five (5) different medical marijuana centers in one product.

(c) A medical marijuana-infused products manufacturer shall enter into a contract with any medical marijuana center for the purchase of medical marijuana to be used in the manufacturing of infused products. The contract must contain, at a minimum, the total amount of marijuana obtained by the medical marijuana center to be used in manufacturing infused products and the total amount of infused products to be manufactured.

**Section 18-14-10. Optional Premises Cultivation.**

An optional premises cultivation license may be issued only to a person licensed as a medical marijuana center or medical marijuana-infused products manufacturer within the corporate limits of the City of Northglenn.

**Section 18-14-11. Location criteria.**

Prior to the issuance of a license for a medical marijuana business, the local licensing authority shall determine whether the proposed location of the medical marijuana business complies with the requirements of this Section. Failure to comply with the requirements of this Section shall preclude issuance of a license.

(a) No medical marijuana business shall be located at the following locations:

(1) within 200 feet of any single or multi-family residential structure or unit, or parcel or lot;

- (2) within 500 feet of a licensed child care facility;
- (3) within 500 feet of any educational institution or school, college or university, either public or private;
- (4) within 500 feet of any public park, public pool, or public or private recreational facility;
- (5) within 1000 feet of any halfway house or correctional facility;
- (6) within 1000 feet of any other medical marijuana business;
- (7) within any building or structure that contains a residential unit; or
- (8) upon any City of Northglenn owned property.

(b) The distances described in subsection (a) shall be computed by direct measurement from the nearest property line of the land used for the above purposes to the unit within a building or structure housing the medical marijuana business using a route of direct pedestrian access.

(c) Each medical marijuana business shall be operated from a permanent location. No medical marijuana business shall be permitted to operate from a moveable, mobile or transitory location.

(d) The suitability of a location for a medical marijuana business shall be determined at the time of the issuance of the first license for such business. The fact that changes in the neighborhood that occur after the issuance of the first license might render the site unsuitable for a medical marijuana business under this Section shall not be grounds to suspend, revoke or refuse to renew the license for such business so long as the license for the business remains in effect.

**Section 18-14-12. Persons prohibited as licensees.**

- (a) No license shall be issued to, held by, or renewed by any of the following:
- (1) Any person until all applicable fees have been paid;
  - (2) Any person who is not of good moral character satisfactory to the local licensing authority;
  - (3) Any corporation, any of whose officers, directors or stockholders are not of good moral character satisfactory to the local licensing authority;
  - (4) Any partnership, association or company, any of whose officers are not of good moral character satisfactory to the local licensing authority;
  - (5) Any person employing, assisted by, or financed in whole or in part by any other person who is not of good character and reputation satisfactory to the local licensing authority;
  - (6) Any sheriff, deputy sheriff, police officer, prosecuting officer, and state or local licensing authority or any of its members, inspectors or employees;
  - (7) Any natural person under twenty-one (21) years of age;
  - (8) Any person who fails to file any tax return with a taxing agency, stay out of default on a government-issued student loan, pay child support, or remedy outstanding delinquent taxes;
  - (9) Any person for a licensed location that is also a retail food establishment or wholesale food registrant;



(10) Any person who has not been a resident of Colorado for at least two (2) years prior to the date of the application;

(11) Any person who has discharged a sentence for a felony conviction within the past five (5) years;

(12) Any person who, at any time, has been convicted of a felony for drug possession, distribution or use;

(13) Any person whose license for a medical marijuana business in another city, city and county or state has been revoked;

(14) Any licensed physician making patient recommendations;

(15) Any entity whose directors, shareholders, partners or other persons having a financial interest in said entity do not meet the criteria set forth above; or

(16) Any person who has made a false, misleading or fraudulent statement on his or her application.

(b) Jurisdiction.

(1) In investigating the qualifications of the applicant or a licensee, the local licensing authority may have access to criminal history record information furnished by a criminal justice agency subject to any restrictions imposed by such agency. In the event the local licensing authority takes into consideration information concerning the applicant's criminal history record, the local licensing authority shall also consider any information provided by the applicant regarding such criminal history record, including but 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 consideration of the application for a license.

(2) As used in Subsection (b)(1) of this Section, "criminal justice agency" means any federal, state, or municipal court or any governmental agency or subunit of such agency that performs the administration of criminal justice pursuant to a statute or executive order and that allocates a substantial part of its annual budget to the administration of criminal justice.

**Section 18-14-13. Issuance of license; duration; renewal.**

(a) Upon issuance of a license, the City shall provide the licensee with one (1) original of such license for each center or cultivation site to be operated by the licensee in the City. Each such copy shall show the name and address of the licensee, the type of facility or business for which it is issued, and the address of the facility at which it is to be displayed.

(b) Each license issued pursuant to this Article shall be valid for one (1) year from the date of issuance and may be renewed only as provided in this Article. All renewals of a license shall be for no more than one (1) year. An application for the renewal of an existing license shall be made to the local licensing authority not more than sixty (60) days and not less than thirty (30) days prior to the date of expiration of the license. A licensee may submit to the local licensing authority a late renewal application on the prescribed forms and pay a non-refundable late application fee in an amount of five-hundred dollars (\$500.00) for a renewal application made less than thirty (30) days prior to the date of the expiration of the license. All other provisions concerning renewal applications apply to a late renewal application. The timely filing

of a completed renewal application or a late renewal application shall extend the current license until a decision is made on the renewal.

(c) Notwithstanding state law to the contrary, a licensee whose license expires and for which a renewal application has not been received by the expiration date shall be deemed to have forfeited its license under this Article. The City shall not accept renewal applications after the expiration date of such license.

(d) A licensee whose license expires shall not cultivate, process, manufacture, distribute or sell medical marijuana or medical marijuana-infused products until all necessary new licenses have been obtained.

**Section 18-14-14.**     Authority to impose conditions on license.

The local licensing authority shall have the authority to impose such reasonable terms and conditions on a license as may be necessary to protect the public health, safety and welfare, and to obtain compliance with the requirements of this Article and applicable law.

**Section 18-14-15.**     Annual license fee.

Upon issuance of a license or any renewal of a license, the licensee shall pay to the City a fee in an amount determined by the local licensing authority to be sufficient to cover the annual cost of inspections conducted pursuant to Section 18-14-32 of this Article by the Northglenn Police Department, and such other departments of the City as may be designated by the local licensing authority, for the purpose of determining compliance with the provisions of this Article and any other applicable state or local laws or regulations.

**Section 18-14-16.**     Display of license.

(a) Each license shall be limited to use at the premises specified in the application for such license.

(b) Each license shall be continuously posted in a conspicuous location at the medical marijuana business facility.

**Section 18-14-17.**     Management of licensed premises.

Licensees who are natural persons shall either manage the licensed premises themselves or employ a separate and distinct manager on the premises and report the name of such manager to the local licensing authority. Licensees that are entities shall employ a manager on the premises and report the name of the manager to the local licensing authority. All managers must be natural persons who are at least twenty-one (21) years of age. No manager shall be a person having a criminal history as described in Subsections 18-14-12(a)(11) and (12) of this Article.

**Section 18-14-18.**     Change in manager; change in financial interest.

(a) Each licensee shall report any change in managers to the local licensing authority within thirty (30) days after the change. Such report shall include all information required for managers under Section 18-14-17 of this Article.

(b) Each licensee shall report in writing to the local licensing authority any transfer or change of financial interest in the license holder or in the medical marijuana business that is the subject of the license. Such report must be filed with the local licensing authority within thirty (30) days after any such transfer or change. A report shall be required for any transfer of the capital stock of a public corporation totaling more than ten percent (10%) of the stock in any one (1) year, as well as any transfer of a controlling interest in the corporation whenever a sufficient number of shares have been transferred to effectuate the transfer of a controlling interest. No person having or acquiring a financial interest in the medical marijuana business that is the subject of a license shall be a person having a criminal history as described in Subsections 18-14-12(a)(11) and (12) of this Article.

(c) Whenever any licensee causes a change in its officers or directors, and a license addendum is required to be filed with the State, an application fee in the amount of one hundred dollars (\$100.00) shall be paid to the City at the time of filing the addendum with the City.

**Section 18-14-19.**     Transfer of ownership; change of location.

(a) Transfer of ownership. For a transfer of ownership, a license holder shall apply to the state and local licensing authority on forms provided by the state licensing authority. In considering whether to permit a transfer of ownership, the local licensing authority shall consider only the requirements of this Article, the Colorado Medical Marijuana Code, and the regulations promulgated in conformance therewith. The local licensing authority may hold a hearing on the application for a transfer of ownership, but such hearing shall not be held until a notice of such hearing has been posted on the licensed medical marijuana business premises for a period of at least ten (10) days prior to such hearing, and the applicant has been provided at least ten (10) days prior notice of such hearing.

(b) Change of location. A licensee from another jurisdiction that has previously obtained a license from the state and any other local licensing authority may move his or her permanent location to the City of Northglenn so long as the applicant and the new location conform to the requirements of this Article.

**Section 18-14-20.**     Hours of operation.

A medical marijuana business may open no earlier than 9:00 a.m. and shall close no later than 7:00 p.m. the same day. A medical marijuana business may be open seven (7) days a week.

**Section 18-14-21. Signage and advertising.**

All signage and advertising for a medical marijuana center or a medical marijuana-infused products manufacturing operation shall comply with all applicable provisions of this Article and other applicable provisions of the Northglenn Municipal Code, including Article 35 of Chapter 11 of the Northglenn Municipal Code. In addition, no signage or advertising shall use the word "marijuana" or "cannabis" or any other word, phrase or symbol commonly understood to refer to marijuana unless such word, phrase or symbol is immediately preceded by the word "medical" in type and font that is at least as readily discernible as all other words, phrases or symbols. Such signage and advertising must clearly indicate that the products and services are offered only for medical marijuana patients and primary caregivers.

**Section 18-14-22. Security requirements.**

(a) Security measures at medical marijuana business facilities shall include at a minimum the following:

- (1) security surveillance cameras installed to monitor all entrances, along with the interior and exterior of the premises, to discourage and facilitate the reporting of criminal acts and nuisance activities occurring at the premises;
- (2) robbery and burglary alarm systems which are professionally monitored and maintained in good working condition;
- (3) a locking safe permanently affixed to the premises that is suitable for storage of all medical marijuana and cash stored overnight on the licensed premises;
- (4) exterior lighting that illuminates the exterior walls of the licensed premises and complies with applicable provisions of this Article and other applicable provisions of the Northglenn Municipal Code; and
- (5) deadbolt locks on all exterior doors.

(b) All security recordings shall be preserved for at least seventy-two (72) hours by the licensee and be made available to the Northglenn Police Department upon request for inspection.

**Section 18-14-23. Required notices.**

There shall be posted in a conspicuous location in each medical marijuana center, a legible sign containing the following warnings:

- (a) that the diversion of marijuana for nonmedical purposes is a violation of state law;
- (b) that the use of medical marijuana or medical marijuana-infused products may impair a person's ability to drive a motor vehicle or operate machinery, and that it is illegal under state law to drive a motor vehicle or to operate machinery when under the influence of or impaired by marijuana;
- (c) that loitering in or around the medical marijuana center, optional premises cultivation operation, or medical marijuana-infused product manufacturing operation is prohibited by state law;

(d) that possession and distribution of marijuana is a violation of federal law; and

(e) that no one under the age of eighteen (18) years is permitted on the premises except minor patients accompanied by a parent or legal guardian in possession of a state registry card for such minor patient.

**Section 18-14-24.** Cultivation, growing and processing by licensees.

(a) Subject to the limitations set forth in Section 18-14-24 and C.R.S. § 12-43.3-403 and other applicable laws, the growing, cultivation or processing of marijuana shall be allowed contiguous or not contiguous to the licensed premises of a medical marijuana business that submitted an application to the City pursuant to Section 18-14-41 of this Northglenn Municipal Code. Provided, however, such growing, cultivation or processing shall be limited to agricultural and industrial zoned land.

(b) The cultivation, growing, processing, display or storage of marijuana plants by a licensee shall be conducted only at the cultivation facility shown on the licensee's application.

(c) Access to any cultivation facility that is located in the same building as a medical marijuana center or medical marijuana-infused products manufacturing operation shall be secured so as to render the cultivation facility inaccessible to any unauthorized persons during all hours of operation of the business facility. All such cultivation facilities shall be independently ventilated so as to prevent odors, debris and dust from entering the center.

(d) To the extent permitted by law, the City shall keep confidential the location of all cultivation facilities.

**Section 18-14-25.** On-site consumption of medical marijuana.

The use, consumption, ingestion or inhalation of medical marijuana or medical marijuana-infused products on or within the premises of a medical marijuana center, cultivation facility or medical marijuana-infused products manufacturing facility is prohibited.

**Section 18-14-26.** Prohibited acts.

It shall be unlawful for any licensee to:

(a) employ any person at a medical marijuana center, cultivation facility or medical marijuana-infused products manufacturing facility who is not at least twenty-one (21) years of age or who has a criminal history as described in Subsections 18-14-12 (a)(11) and (12);

(b) sell, give, dispense or otherwise distribute medical marijuana to anyone other than a patient, primary caregiver, licensee or medical marijuana business that is licensed in another jurisdiction in the State;

(c) sell, give, dispense or otherwise distribute to any patient or primary caregiver who is not a licensee more than two (2) ounces of any usable form of medical marijuana within any seven-day period of time;

(d) purchase or otherwise obtain medical marijuana from any source that is not properly authorized under state and local law to sell or dispense medical marijuana;

(e) permit on the licensed premises any person other than:

(1) the licensee, the licensee's manager, employees and financial interest holders,

(2) a patient in possession of a registry identification card or its functional equivalent under Section 14(3)(d) of Amendment 20,

(3) a minor patient accompanied by a parent or lawful guardian in possession of the minor patient's registry identification card,

(4) a minor accompanied by a parent or legal guardian who is a patient,

(5) a primary caregiver in possession of his or her patient's registry identification card or its functional equivalent under Section 14(3)(d) of Amendment 20 and the patient's written designation of said person as the patient's primary caregiver, as submitted to the Colorado Department of Public Health and Environment,

(6) a person whose physical presence and assistance are necessary to assist a patient,

(7) a person who is actively engaged in the maintenance, repair or improvement of the licensed premises or in the provision of accounting or other professional directly related to the conduct of the licensee's medical marijuana business, or

(8) law enforcement officers, inspectors and other officials or employees of any federal, state or local government or agency engaged in the lawful performance of their official duties;

(f) dispense medical marijuana in or upon its cultivation facility;

(g) permit the sale or consumption of alcohol beverages on the licensed premises;

(h) post or allow to be posted signs or other advertising materials identifying cultivation facilities as being associated with the use or cultivation of marijuana; or

(i) dispense medical marijuana to a person that is or appears to be under the influence of alcohol or under the influence of any controlled substance, including marijuana.

**Section 18-14-27. Visibility of activities; paraphernalia; control of emissions.**

(a) All activities of medical marijuana centers, cultivation facilities and medical marijuana-infused products manufacturing operations, including, without limitation, cultivating, growing, processing, displaying, selling and storage, shall be conducted indoors.

(b) Devices, contrivances, instruments and paraphernalia for inhaling or otherwise consuming marijuana, including, but not limited to, rolling papers and related tools, water pipes, and vaporizers may lawfully be sold at a medical marijuana business. Such items may be sold or

provided only to patients or primary caregivers. No medical marijuana or paraphernalia shall be displayed or kept in a medical marijuana business facility so as to be visible from outside the licensed premises.

(c) Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting a medical marijuana business facility must be provided at all times. In the event that any odors, debris, dust, fluids or other substances exit a medical marijuana business facility, the owner of the subject premises and the licensee shall be jointly and severally liable for such conditions and shall be responsible for immediate, full clean-up and correction of such condition. The licensee shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations.

**Section 18-14-28.**     Disposal of marijuana byproducts.

The disposal of medical marijuana, medical marijuana-infused products, byproducts and paraphernalia shall be done in accordance with plans and procedures approved in advance by the local licensing authority.

**Section 18-14-29.**     Sales and business license required.

At all times while a permit is in effect the licensee shall possess a valid license issued under Section 5-3-19 of the Northglenn Municipal Code.

**Section 18-14-30.**     Sales tax.

Each licensee shall collect and remit City sales tax on all medical marijuana, medical marijuana-infused products, paraphernalia and other tangible personal property sold by the licensee.

**Section 18-14-31.**     Required books and records.

(a) Every licensee shall maintain an accurate and complete record of all medical marijuana purchased, sold or dispensed by the medical marijuana business in any usable form. Such record shall include the following:

- (1) the identity of the seller and purchaser involved in each transaction;
- (2) the total quantity of, and amount paid for, the medical marijuana and/or the medical marijuana-infused product(s); and
- (3) the date, time and location of each transaction.

(b) Every patient or primary caregiver shall provide to the licensee, and the licensee shall record, the following information for such books and records:

- (1) the patient or primary caregiver's name, date of birth, and current street address, including city, state and zip code;

(2) the form of identification that was presented by the patient or primary caregiver, which may include any of the following, and the identifying number, if any, from such form:

- C.R.S.,
- a. an identification card issued in accordance with Section 42-2-302,
  - b. a valid state driver's license,
  - c. a military identification card, or
  - d. an alien registration card;

(3) a registry identification card or its functional equivalent under Section 14(3)(d) of Amendment 20 and, in the case of a primary caregiver, the date the primary caregiver was designated by the patient for whom the medical marijuana was purchased.

(c) Information provided to the licensee by a patient or primary caregiver under the provisions of this Section need not include any information regarding the patient's physical or medical condition.

(d) All transactions shall be kept in a numerical register in the order in which they occur.

(e) All records required to be kept under this Article must be kept in the English language in a legible manner and must be preserved and made available for inspection for a period of three (3) years after the date of the transaction. Information inspected by the Northglenn Police Department or other City departments pursuant to this Article shall be used for regulatory and law enforcement purposes only and shall not be a matter of public record.

**Section 18-14-32. Inspection of licensed premises.**

During all business hours and other times of apparent activity, all licensed premises shall be subject to inspection by the Northglenn Police Department and all other City departments designated by the local licensing authority for the purpose of investigating and determining compliance with the provisions of this Article and any other applicable state and local laws or regulations. Said inspection may include, but need not be limited to, the inspection of books, records and inventory. Where any part of the licensed premises consists of a locked area, such area shall be made available for inspection, without delay, upon request.

**Section 18-14-33. Nonrenewal, suspension or revocation of license.**

(a) The local licensing authority may, after notice and hearing, suspend, revoke or refuse to renew a license for good cause, including suspension or revocation of the licensee's state license. The local licensing authority is authorized to adopt rules and procedures governing the conduct of such hearings.

(b) The local licensing authority may, in its discretion, revoke or elect not to renew any license if it determines that the licensed premises has been inactive, without good cause, for at least one year.



**Section 18-14-34.** Violations and penalties.

In addition to the possible denial, suspension, revocation or nonrenewal of a license under the provisions of this Article, any person, including, but not limited to, any licensee, manager or employee of a medical marijuana business, or any customer of such business, who violates any of the provisions of this Article, shall be subject to the following penalties:

(a) It shall a misdemeanor offense for any person to violate any provision of this Article. Any person convicted of having violated any provision of this Article shall be punished as set forth in Section 1-1-10 of the Northglenn Municipal Code.

(b) The operation of a medical marijuana business without a valid license issued pursuant to this Article may be enjoined by the City in an action brought in a court of competent jurisdiction, including the Northglenn Municipal Court.

(c) The operation of a medical marijuana business without a valid license issued pursuant to this Article is also specifically determined to be a public nuisance pursuant to Section 9-11-3 of the Northglenn Municipal Court.

**Section 18-14-35.** No City liability; indemnification.

(a) By accepting a license issued pursuant to this Article, the licensee waives and releases the City, its officers, elected officials, employees, attorneys and agents from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of center owners, operators, employees, clients or customers for a violation of state or federal laws, rules or regulations.

(b) By accepting a license issued pursuant to this Article, all licensees, jointly and severally if more than one (1), agree to indemnify, defend and hold harmless the City, its officers, elected officials, employees, attorneys, agents, insurers and self-insurance pool against all liability, claims and demands on account of any injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever arising out of or in any manner connected with the operation of the medical marijuana business that is the subject of the license.

**Section 18-14-36.** No waiver of governmental immunity.

In adopting this Article, the City Council is relying on and does not waive or intend to waive by any provision of this Article, the monetary limitations (presently \$150,000 per person and \$600,000 per occurrence) or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act, Section 24-10-101, *et seq.*, C.R.S., as from time to time amended, or any other limitation, right, immunity, or protection otherwise available to the City, its officers or its employees.

**Section 18-14-37.** Other laws remain applicable.

(a) To the extent the State has adopted or adopts in the future any additional or stricter law or regulation governing the sale or distribution of medical marijuana or medical marijuana-infused products, the additional or stricter regulation shall control the establishment or operation

of any medical marijuana business in the City. Compliance with any applicable state law or regulation shall be deemed an additional requirement for issuance or denial of any license under this Article, and noncompliance with any applicable state law or regulation shall be grounds for revocation or suspension of any license issued hereunder.

(b) Any licensee may be required to demonstrate, upon demand by the local licensing authority or by law enforcement officers, that the source and quantity of any marijuana found upon the licensed premises are in full compliance with any applicable state law or regulation.

(c) If the State prohibits the sale or other distribution of marijuana through medical marijuana centers, any license issued hereunder shall be deemed immediately revoked by operation of law, with no ground for appeal or other redress on behalf of the licensee.

(d) The issuance of any license pursuant to this Article shall not be deemed to create an exception, defense or immunity to any person in regard to any potential criminal liability the person may have for the cultivation, possession, sale, distribution or use of marijuana.

**Section 18-14-38. Rules and regulations.**

The City Manager shall have the authority from time to time to adopt, amend, alter and repeal administrative rules and regulations, and file the same with the City Clerk, as may be necessary for the proper administration of this Article.

**Section 18-14-39. Severability.**

If any provision of this Ordinance or the application thereof to any person or circumstances, is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

**Section 18-14-40. Existing Medical Marijuana Business as of September 24, 2009.**

Any medical marijuana business existing and having filed an application for a Business and Sales Tax License as of September 24, 2009 shall be exempt from the distance limitations in Section 18-14-11(a).

**Section 18-14-41. Permitted Medical Marijuana Business as of June 30, 2010.**

Any previously permitted medical marijuana business (defined by Ordinance No. 1550, Series of 2009 as a permitted medical marijuana dispensary) as of June 30, 2010, may continue to operate within the City pursuant to the provisions of this Article and C.R.S. § 12-43-103 only if the licensee on or before August 1, 2010, completes the forms provided by the Department of Revenue and pays the fees established by the Department of Revenue pursuant to C.R.S. § 12-43.3-103(1)(b).

**Section 18-14-42.** Temporary Suspension on Acceptance of Licenses for Medical Marijuana Centers, Optional Premises Cultivation Operations, and Medical Marijuana-Infused Products Manufacturing Licenses.

In accordance with the Colorado Medical Marijuana Code, the City shall not accept any applications for a local license for medical marijuana centers, optional premises cultivation operations, or medical marijuana-infused products manufacturing licenses until July 1, 2012, or such sooner time as may be determined by the City Council by ordinance.

**Section 18-14-43.** Patients and Primary Caregivers.

Nothing in this Article 14 of Chapter 18 shall be construed to prohibit, regulate or otherwise impair the use of medical marijuana by patients as defined by the Colorado Constitution, or the provision of medical marijuana by a primary caregiver to a patient in accordance with the Colorado Constitution, and consistent with C.R.S. § 25-1.5-106, and rules promulgated thereunder, as the same statute and rules may be amended from time to time.

INTRODUCED, READ AND ORDERED POSTED this \_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
JOYCE DOWNING  
Mayor

ATTEST:

\_\_\_\_\_  
JOHANNA SMALL, CMC  
City Clerk

PASSED ON SECOND AND FINAL READING this \_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
JOYCE DOWNING  
Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
JOHANNA SMALL, CMC  
City Clerk

\_\_\_\_\_  
COREY Y. HOFFMANN  
City Attorney