

SPONSORED BY: MAYOR DOWNING

COUNCILMAN'S RESOLUTION

RESOLUTION NO.

No. CR-72
Series of 2012

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A RESOLUTION MAKING FINDINGS OF FACT IN SUPPORT OF THE DECISION TO AFFIRM THE CITY MANAGER'S DECISION FINDING GOOD CAUSE FOR NON-RENEWAL AND REVOKING THE MEDICAL MARIJUANA DISPENSARY PERMIT OF BOTANACARE LLC

WHEREAS, the City Council of the City of Northglenn conducted a hearing on June 11, 2012, pursuant to Section 18-14-22 of the City of Northglenn Municipal Code to consider the appeal filed by BotanaCare, LLC ("BotanaCare") of the determination by the City Manager to revoke and find good cause for non-renewal of BotanaCare's medical marijuana dispensary permit for premises located of 11450 Cherokee Street, Suite A7, Northglenn, Colorado 80234 based on BotanaCare's failure to comply with C.R.S. §§ 12-43.3-103(2)(b) and 12-43.3.402(4), and Colorado Code of Regulations, 1 CCR 212-1, Regulation 1.210, all of which require that a medical marijuana business or operation cultivate at least 70% of the medical marijuana necessary for its operation;

WHEREAS, the City Council at the June 11, 2012, hearing took evidence and heard arguments regarding the ability of BotanaCare to comply with the requirement that a medical marijuana business or operation cultivate at least 70% of the medical marijuana necessary for its operation;

WHEREAS, BotanaCare through its representative members stipulated to the fact that it was not in compliance C.R.S. §§ 12-43.3-103(2)(b) and 12-43.3.402(4), and Colorado Code of Regulations, 1 CCR 212-1, Regulation 1.210, all of which require that a medical marijuana business or operation cultivate at least 70% of the medical marijuana necessary for its operation, and instead argued for and sought an extension of time in which to come into compliance with such regulations; and

WHEREAS, after hearing the evidence, hearing arguments, and deliberating on the evidence, the City Council directed in accordance with Section 3-7-11 of the Northglenn Municipal Code that findings of fact be drafted to affirm the City Manager's determination to revoke and find good cause for non-renewal of BotanaCare's medical marijuana dispensary permit pursuant to Article 14 of Chapter 18 of the Northglenn Municipal Code.

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

Section 1. The recitals set forth above are hereby incorporated herein by this reference.

Section 2. The City Council hereby makes the following findings of fact:

- A. It is undisputed and was stipulated to by BotanaCare that BotanaCare is not in compliance with the provisions of C.R.S. §§ 12-43.3-103(2)(b) and 12-43.3.402(4), and Colorado Code of Regulations, 1 CCR 212-1, Regulation 1.210, which provisions require that a medical marijuana business or operation cultivate at least 70% of the medical marijuana necessary for its operation;
- B. A violation of the above provisions of Colorado law is a violation of Section 18-14-22 of the Northglenn Municipal Code;
- C. The City Council does not have the authority under Colorado law to extend the time for compliance with the requirement that a medical marijuana business or operation cultivate at least 70% of the medical marijuana necessary for its operation under the above provisions of law; and
- D. BotanaCare made an evidentiary showing of a number of reasons for its noncompliance with the 70% cultivation requirement, but none of the reasons provide a basis for the City Council pursuant to the Colorado Medical Marijuana Code, C.R.S. § 12-43-3-101, *et seq.*, or the City of Northglenn Municipal Code to excuse the noncompliance of BotanaCare.

Section 3. Based on the findings of fact in Section 2 above, the City Council therefore determines to AFFIRM the City Manager's decision to revoke and find good cause for non-renewal of BotanaCare's medical marijuana dispensary permit for premises located of 11450 Cherokee Street Suite A7, Northglenn, Colorado 80234.

Section 4. THIS DECISION IS EFFECTIVE IMMEDIATELY, and the City staff is directed to take necessary steps to ensure compliance with these Findings of Fact, including, but not limited to, assuring that BotanaCare ceases to operate its business immediately, and notifying the State of Colorado Medical Marijuana Enforcement Decision of this revocation and non-renewal of BotanaCare's City of Northglenn medical marijuana dispensary permit.

DATED at Northglenn, Colorado, this 25th day of June, 2012.

JOYCE DOWNING
Mayor

ATTEST:

APPROVED AS TO FORM:

JOHANNA SMALL, CMC
City Clerk

COREY Y. HOFFMANN
City Attorney