

SPONSORED BY: MAYOR DOWNING

COUNCILMAN'S RESOLUTION

RESOLUTION NO.

No. CR-105
Series of 2011

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A RESOLUTION SETTING A HEARING ON THE MEDICAL MARIJUANA LICENSE OF BOTANACARE LLC FOR MAY 24, 2012

WHEREAS, BotanaCare LLC (the "Licensee") is a licensed medical marijuana dispensary in the City of Northglenn and in the State of Colorado pursuant to the Colorado Medical Marijuana Code, C.R.S. § 12-43.3-101, *et seq.*, and the City of Northglenn Medical Marijuana Code, Article 14 of Chapter 18 of the Northglenn Municipal Code;

WHEREAS, the Licensee has indicated in application materials submitted as part of the application for renewal of Licensee's City of Northglenn medical marijuana permit that applicant is not currently cultivating any of its medical marijuana inventory;

WHEREAS, C.R.S. § 12-43.3-103(2)(b) of the Colorado Medical Marijuana Code provides as follows:

On or before September 1, 2010, a business or operation shall certify that it is cultivating at least 70% of the medical marijuana necessary for its operation.

WHEREAS, also Section 18-14-30 of the City of Northglenn Municipal Code requires certification of compliance with the cultivation requirement contained in C.R.S. § 12-43.3-103(2)(b);

WHEREAS, based on the renewal application documents submitted by Licensee, the City Manager of the City of Northglenn found good cause existed for nonrenewal and a basis for revocation because the Licensee has failed to comply as of the date of the renewal application with the requirements prohibiting dispensaries/centers from purchasing more than thirty percent (30%) of their total on-hand medical marijuana inventory;

WHEREAS, the Licensee has timely appealed the City Manager's decision to the City Council of the City of Northglenn based on the language contained in State of Colorado Medical Marijuana Enforcement Division Rules, specifically Regulation 1.210;

WHEREAS, Regulation 1.210 specifically provides that a newly licensed business must show compliance with C.R.S. § 12-43.3-103(2)(b) within its first twelve (12) months of business;

WHEREAS, the City Manager was unable to renew the permit of Licensee based on

Licensee's affirmative indication that it is not complying with the cultivation requirement contained in C.R.S. § 12-43.3-103(2)(b);

WHEREAS, the City of Northglenn is also aware of the provisions of Regulation 1.210, and is thus aware of the apparent discrepancy between the language of C.R.S. § 12-43.3-103(2)(b) and Regulation 1.210; and

WHEREAS, the City of Northglenn desires to set a hearing regarding the non-renewal and potential revocation of Licensee's permit, but desires to do so consistent with the State of Colorado's policy as set forth in Regulation 1.210 and thus desires to set the hearing after Licensee has been in business for twelve (12) months.

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

Section 1. The hearing on Licensee's appeal of the City Manager's determination that good cause existed for nonrenewal, and that Licensee's permit is to be revoked based on non-compliance with cultivation requirements contained in Colorado law is hereby set for May 24, 2012, at 7:00 p.m., or as soon thereafter as the matter may be heard.

DATED at Northglenn, Colorado, this ____ day of _____, 2011.

JOYCE DOWNING
Mayor

ATTEST:

JOHANNA SMALL, CMC
City Clerk

APPROVED AS TO FORM:

COREY Y. HOFFMANN
City Attorney