

SPONSORED BY: MAYOR DOWNING

COUNCILMAN'S RESOLUTION

RESOLUTION NO.

No. CR-71
Series of 2015

Series of 2015

A RESOLUTION APPROVING ON RECONSIDERATION THE MODIFICATION OF PREMISES FOR THE PREMISES LICENSED BY BOTANACARE, LLC

WHEREAS, BotanaCare, LLC (“BotanaCare”), a dual operation medical marijuana business and retail marijuana establishment situated in the City of Northglenn, previously applied for a modification or alteration of its licensed premises pursuant to the Colorado Code of Regulations, 1 CCR 212-1, Regulation No. M303 and 1 CCR 212-2, Regulation No. R303;

WHEREAS, the City Council of the City of Northglenn, acting as the local licensing authority for medical and retail marijuana as defined by Sections 18-14-5 and 18-16-5 of the City of Northglenn Municipal Code, is required to approve a modification or alteration of a previously approved licensed premise pursuant to the Colorado Code of Regulations, 1 CCR 212-1, Regulation No. M303, 1 CCR 212-2, Regulation No. R303 and Sections 18-14-3 and 18-16-3 of the City of Northglenn Municipal Code;

WHEREAS, Section 18-14-11(d) and Section 18-16-13(d) of the Northglenn Municipal Code both provide that “[t]he suitability of a location for a . . . marijuana business shall be determined at the time of the issuance of the first license for such business”;

WHEREAS, based on the application of the distance limitations in the Northglenn Municipal Code to BotanaCare, the location of the licensed premises at the time of the issuance of the “first license” complied with the Northglenn Municipal Code;

WHEREAS, the City, subsequent to the issuance of BotanaCare’s “first license,” modified the Northglenn Municipal Code regarding the measurement of distance to require a measurement using a radius, instead of a route of direct pedestrian access, which would make BotanaCare’s licensed premises, as proposed to be modified, non-compliant with the new distance limitations;

WHEREAS, the request for a modification of premises was considered by the City Council of the City of Northglenn, acting as the local licensing authority on May 11, 2015, and failed on a tie (4-4) vote;

WHEREAS, based on the tie vote, BotanaCare sought reconsideration of its request at the May 18, 2015 meeting;

WHEREAS, BotanaCare further specifically requested a hearing on the expansion of the licensed premises to determine compliance with Colorado Code of Regulations, 1 CCR 212-1, Regulation No. M303 and 1 CCR 212-2, Regulation No. R303;

WHEREAS, the City Council of the City of Northglenn, acting as the local licensing authority, determined to exercise its discretion and grant BotanaCare's request and notify the neighborhood within five hundred (500) feet of the licensed premises of the expansion;

WHEREAS, the City after considering the unique circumstances of the proposed modification, including specifically the fact that the measurement of distance applicable to BotanaCare's licensed premises was compliant at the time of the issuance of the first license, determines that a modification of premises is authorized under the language of Section 18-14-11(d) and Section 18-16-13(d) of the Northglenn Municipal Code and the applicable provisions of the Colorado Code of Regulations; and

WHEREAS, such modification may be approved if the modification is otherwise in compliance with the ordinances and regulations of the City and is not contrary to the health, safety and welfare of the citizens of the City of Northglenn.

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

Section 1. The City Council hereby approves on reconsideration the Report of Changes – Modification of Premises Application by Licensee BotanaCare, LLC.

Section 2. The City Council specifically finds pursuant to Colorado Code of Regulations, 1 CCR 212-1, Regulation No. M303 and 1 CCR 212-2, Regulation No. R303 that it is required to determine whether the proposed expansion “conforms to any local restrictions related to the time, manner and place. . .” of such regulations. In this regard, the City Council acting as the local licensing authority finds based on the evidence presented at the hearing on June 22, 2015 by a preponderance of the evidence as follows:

A. That demonstrable negative impacts caused by the expansion of the marijuana business have not been shown; and

B. Although the proposed expansion is within the two hundred (200) foot radius from any single or multi-family residential structure or unit, or parcel or lot, because the original license was issued in compliance with the then applicable distance limitations and there was no evidence presented of negative impacts on the neighborhood caused by such expansion, the City Council hereby approves the expansion of the licensed premises.

DATED at Northglenn, Colorado, this _____ day of _____, 2015.

JOYCE DOWNING
Mayor

ATTEST:

JOHANNA SMALL, CMC
City Clerk

APPROVED AS TO FORM:

COREY Y. HOFFMANN
City Attorney

SPONSORED BY: MAYOR DOWNING

COUNCILMAN'S RESOLUTION

RESOLUTION NO.

No. CR-71
Series of 2015

Series of 2015

A RESOLUTION DENYING ON RECONSIDERATION THE MODIFICATION OF PREMISES FOR THE PREMISES LICENSED BY BOTANACARE, LLC

WHEREAS, BotanaCare, LLC (“BotanaCare”), a dual operation medical marijuana business and retail marijuana establishment situated in the City of Northglenn, previously applied for a modification or alteration of its licensed premises pursuant to the Colorado Code of Regulations, 1 CCR 212-1, Regulation No. M303 and 1 CCR 212-2, Regulation No. R303;

WHEREAS, the City Council of the City of Northglenn, acting as the local licensing authority for medical and retail marijuana as defined by Sections 18-14-5 and 18-16-5 of the City of Northglenn Municipal Code, is required to approve a modification or alteration of a previously approved licensed premise pursuant to the Colorado Code of Regulations, 1 CCR 212-1, Regulation No. M303, 1 CCR 212-2, Regulation No. R303 and Sections 18-14-3 and 18-16-3 of the City of Northglenn Municipal Code;

WHEREAS, Section 18-14-11(d) and Section 18-16-13(d) of the Northglenn Municipal Code both provide that “[t]he suitability of a location for a . . . marijuana business shall be determined at the time of the issuance of the first license for such business”;

WHEREAS, based on the application of the distance limitations in the Northglenn Municipal Code to BotanaCare, the location of the licensed premises at the time of the issuance of the “first license” complied with the Northglenn Municipal Code;

WHEREAS, the City, subsequent to the issuance of BotanaCare’s “first license,” modified the Northglenn Municipal Code regarding the measurement of distance to require a measurement using a radius, instead of a route of direct pedestrian access, which would make BotanaCare’s licensed premises, as proposed to be modified, non-compliant with the new distance limitations;

WHEREAS, the request for a modification of premises was considered by the City Council of the City of Northglenn, acting as the local licensing authority on May 11, 2015, and failed on a tie (4-4) vote;

WHEREAS, based on the tie vote, BotanaCare sought reconsideration of its request at the May 18, 2015 meeting;

WHEREAS, BotanaCare further specifically requested a hearing on the expansion of the licensed premises to determine compliance with Colorado Code of Regulations, 1 CCR 212-1, Regulation No. M303 and 1 CCR 212-2, Regulation No. R303;

WHEREAS, the City Council of the City of Northglenn, acting as the local licensing authority, determined to exercise its discretion and grant BotanaCare's request and notify the neighborhood within five hundred (500) feet of the licensed premises of the expansion;

WHEREAS, after considering the unique circumstances of the proposed modification, including specifically the fact that while the measurement of distance applicable to BotanaCare's licensed premises was compliant at the time of the issuance of the first license, the proposed expansion of the licensed premises causes the licensed premises to become non-compliant with the distance limitations contained in Section 18-14-11(d) and Section 18-16-13(d) of the Northglenn Municipal Code; and

WHEREAS, such modification may be denied if the modification is not in compliance with the ordinances and regulations of the City related to eligibility of the licensed premises, based on non-compliance with the distance limitations contained in the Northglenn Municipal Code.

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

Section 1. The City Council hereby denies on reconsideration the Report of Changes – Modification of Premises Application by Licensee BotanaCare, LLC.

Section 2. The City Council specifically finds pursuant to Colorado Code of Regulations, 1 CCR 212-1, Regulation No. M303 and 1 CCR 212-2, Regulation No. R303 that it is required to determine whether the proposed expansion “conforms to any local restrictions related to the time, manner and place. . .” of such regulations. In this regard, the City Council acting as the local licensing authority finds based on the evidence presented at the hearing on June 22, 2015 by a preponderance of the evidence as follows:

A. That demonstrable negative impacts caused by the expansion of the marijuana business have been shown; and

B. Because the proposed expansion is within the two hundred (200) foot radius from any single or multi-family residential structure or unit, or parcel or lot, such negative impacts authorize the City Council to deny the expansion of the licensed premises as a matter of law.

DATED at Northglenn, Colorado, this _____ day of _____, 2015.

JOYCE DOWNING
Mayor

ATTEST:

JOHANNA SMALL, CMC
City Clerk

APPROVED AS TO FORM:

COREY Y. HOFFMANN
City Attorney