

SPONSORED BY: MAYOR DOWNING

COUNCILMAN'S RESOLUTION

RESOLUTION NO.

No. CR-131
Series of 2015

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A RESOLUTION APPROVING THE TRANSFER OF OWNERSHIP OF A MEDICAL MARIJUANA CENTER WITH OPTIONAL PREMISES CULTIVATION AND A RETAIL MARIJUANA STORE FROM BOTANACARE, LLC AND BOTANACARE 21+ TO BGOOD VENTURES LLC

WHEREAS, BGood Ventures LLC (“BGood”) seeks the transfer of ownership of a dual operation medical marijuana business and retail marijuana establishment situated in the City of Northglenn and currently in the name of BotanaCare, LLC and BotanaCare 21+;

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 (the “Licensing Authority”), is required to approve a transfer of ownership pursuant to C.R.S. § 12-43.3-309, C.R.S. § 12-43.4-308, Colorado Code of Regulations, 1 CCR 212-1, Regulation No. M205, 1 CCR 212-2, Regulation No. R205 and Sections 18-14-19 and 18-16-21 of the City of Northglenn Municipal Code;

WHEREAS, Sections 18-14-19 and 18-16-21 of the City of Northglenn Municipal Code authorize a hearing to be conducted on the transfer of such medical and retail licenses;

WHEREAS, the Licensing Authority determined on October 12, 2015 to set the application for a transfer of ownership to BGood for a hearing to be conducted on October 26, 2015;

WHEREAS, the purpose of the hearing on the transfer of ownership is to determine if the proposed new licensee is qualified and eligible to hold medical and retail marijuana licenses pursuant to Northglenn Municipal Code Sections 18-14-12 and 18-16-14; and

WHEREAS, in determining the qualifications and eligibility of BGood, Sections 18-14-12 and 18-16-14 of the Northglenn Municipal Code Sections require consideration of the following criteria:

- (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 for a licensed location that is also a retail food establishment or wholesale food registrant;

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

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

(11) Any person who, at any time, has been convicted of a felony for drug possession, distribution or use, unless such felony drug charge was based on possession or use of marijuana or marijuana concentrate that would not be a felony if the person were convicted of the offense on the date he or she applied for the license;

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

(13) Any person who employs another person at a retail marijuana establishment who has not submitted fingerprints for a criminal record history check or whose criminal record history check reveals the employee is ineligible; or

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

AND

(b) No licensee shall employ or contract with any person to perform work functions directly related to the possession, cultivation, dispensing, selling, serving or delivering of marijuana for a licensed retail marijuana establishment, any of the following:

(1) Any person who is not of good moral character satisfactory to the local licensing authority;

(2) Any person who is under twenty-one (21) years of age;

(3) Any person who is not currently a resident of Colorado;

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

(5) Any person who, at any time, has been convicted of a felony for drug possession, distribution or use, unless such felony drug charge was based on possession or use of marijuana or marijuana concentrate that would not be a felony if the person were convicted of the offense on the date he or she applied for the license; or

(6) Any sheriff, deputy sheriff, police officer, prosecuting officer, and state or local licensing authority or any of its members, inspectors or employees.

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 Licensing Authority hereby makes the following findings of fact based on the evidence presented at the hearing of October 26, 2015:

A. The evidence demonstrated that BGood is qualified and eligible as a medical and retail marijuana licensee pursuant to the Colorado Medical Marijuana Code, C.R.S. § 12-43.3-101, *et seq.*, the Colorado Retail Marijuana Code, C.R.S. § 12-43.4-101, *et seq.*, and Articles 14 and 16 of Chapter 18, as follows:

1. The Licensing Authority finds that for purposes of the Colorado Medical Marijuana Code and Article 14 of Chapter 18 of the Northglenn Municipal Code, BGood, its members and employees are not prohibited as licensees pursuant to C.R.S. § 12-43.3-307 and Section 18-14-12 of the Northglenn Municipal Code; and

2. The Licensing Authority finds that for purposes of the Colorado Retail Marijuana Code and Article 16 of Chapter 18 of the Northglenn Municipal Code, BGood, its members and employees are not prohibited as licensees pursuant to C.R.S. § 12-43.4-306 and Section 18-16-14 of the Northglenn Municipal Code.

B. However, the evidence further demonstrated that the current licensees of BotanaCare LLC appeared before the City Council on June 22, 2015 seeking a modification of the licensed premises, and did not disclose the existence of litigation potentially impacting the license, including an Order of Judgment dated April 22, 2015, which ordered the transfer of BotanaCare's marijuana licenses to BGood. The Licensing Authority further finds as follows:

1. The Licensing Authority finds that because BotanaCare representatives knew or should have known that such information was material, and should have been disclosed to the Licensing Authority, that the approval of the modification of the licensed premises was provided under circumstances now found by the Licensing Authority to be in doubt; and

2. While the Licensing Authority further finds that the failure of BotanaCare representatives to disclose such material information is not attributable to BGood, the Licensing Authority hereby accepts the offer of BGood to withdraw the application for a modification of premises previously granted to BotanaCare on June 22, 2015.

Section 3. Based on the findings of fact in Section 2 above, the Licensing Authority therefore determines to APPROVE the application for a Transfer of Ownership to BGood Ventures, LLC for the licensed premises located at 11450 Cherokee Street, Units A4-A7 Northglenn, Colorado.

Section 4. Based on the representations of BGood as set forth in Section 2 regarding the June 22, 2015 approval by the Licensing Authority of the modification of premises to include Units A1-A3, Resolution No. 15-77, Series of 2015, is hereby REPEALED.

Section 5. The Licensing Authority further acknowledges that the transfer of ownership of the State of Colorado licenses are still pending before the Colorado Marijuana Enforcement Decision, and that BGood is not authorized under Colorado law to perfect the transfer of ownership until both the local and state licensing authorities have approved the transfer. The Licensing Authority therefore directs that BGood appear before the Licensing Authority on December 14, 2015, to provide a status report to the Licensing Authority in the event the transfer of ownership has not been approved by the State of Colorado, so that the Licensing Authority can consider any further action in light of the findings set forth above.

Section 6. THIS DECISION IS EFFECTIVE IMMEDIATELY, and the City staff is directed to send a copy of this decision via certified mail to BGood Ventures, LLC, and transmit the decision to the state licensing authority as required by 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