

**CITY CLERK'S OFFICE MEMORANDUM
#05-2020**

DATE: January 27, 2020
TO: Honorable Mayor Meredith Leighty and City Council Members
THROUGH: Heather Geyer, City Manager *hmg*
FROM: Johanna Small, City Clerk *JS*
SUBJECT: CB-1941 – Marijuana License Requirements

PURPOSE

To consider CB-1941, an ordinance that would amend Article 14 (Medical Marijuana Regulations) and Article 16 (Retail Marijuana Regulations) of Chapter 18 of the Municipal Code regarding marijuana businesses. The proposed amendments would eliminate the Colorado residency requirement for marijuana business licensees, address requirements related to publicly traded corporations holding licenses, and increase the timeframe for licensees to report financial interest changes to the local authority to be consistent with State law.

BACKGROUND

Colorado House Bill 19-1090 was signed by Governor Polis in May 2019. Many of the provisions enacted by HB19-1090 are regulated at the State level, and CB-1941 addresses items pertinent to the City's Code. The bill applies to marijuana license applications made on or after November 1, 2019 and includes the following provisions: 1) permits certain publicly traded company ownership in marijuana businesses; 2) permits the use of certain private investment vehicles including private equity and venture capital funds; and 3) creates new ownership and investment categories for marijuana licenses, which require disclosure and suitability findings.

The City's medical and retail marijuana regulations contain a number of restrictions related to those eligible to hold a marijuana business license. The City currently prohibits any person who has not been a resident of Colorado for at least two years prior to the date of application from holding a license. The State has eliminated their two-year residency requirement for certain ownership positions that do not exercise day-to-day operational control of a marijuana business.

The City Attorney has drafted an ordinance to update the City's marijuana regulations related to ownership, residency, and disclosure of financial interests. The tables below identify the sections of the Municipal Code that would be amended by CB-1941.

Chapter 18, Article 14 – Medical Marijuana Regulations

Municipal Code Section	Amendment
Sections 18-14-12(a)(3) and 18-14-12(a)(14)	Language added to require that stockholders and shareholders owning 10% or more of the entity's stock are subject to moral character requirements.
Section 18-14-12(a)(10)	Eliminates the Colorado residency requirement for licensees.
Section 18-14-18(b)	Increases the timeframe for licensees to report changes in financial interest to the local authority from 30 days to 45 days to be consistent with State Marijuana Rules.

Chapter 18, Article 16 – Retail Marijuana Regulations

Municipal Code Section	Amendment
Sections 18-16-14(a)(3) and 18-16-12(a)(12)	Language added to require that stockholders and shareholders owning 10% or more of the entity's stock are subject to moral character requirements.
Sections 18-16-14(a)(9) and 18-16-14(b)(3)	Eliminates the Colorado residency requirement for licensees, employees, and contractors.
Section 18-16-20(b)	Increases the timeframe for licensees to report changes in financial interest to the local authority from 30 days to 45 days to be consistent with State Marijuana Rules.

City Council approved CB-1941 on first reading at the January 13, 2020 regular City Council meeting. A public hearing and second reading of the proposed ordinance was scheduled for January 27, 2020.

STAFF RECOMMENDATION

Staff recommends approval of CB-1941 on second reading.

BUDGET/TIME IMPLICATIONS

If CB-1941 is adopted on second reading, the ordinance will take effect five days following publication.

STAFF REFERENCE

If Council members have any comments or questions they may contact Johanna Small, City Clerk, at 303.450.8757 or jsmall@northglenn.org.

SPONSORED BY: MAYOR LEIGHTY

COUNCILMAN'S BILL

ORDINANCE NO.

No. CB-1941
Series of 2020

Series of 2020

A BILL FOR AN ORDINANCE AMENDING ARTICLE 14 AND ARTICLE 16 OF CHAPTER 18 OF THE NORTHGLENN MUNICIPAL CODE REGARDING MARIJUANA BUSINESSES

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

Section 1. Section 18-14-12 of the Northglenn Municipal Code is amended to read as follows:

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 OWNING TEN PERCENT (10%) OR MORE OF THE STOCK OF THE ENTITY 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)~~(10) Any person who has discharged a sentence for a felony conviction within the past five (5) years;
- ~~(12)~~(11) Any person who, at any time, has been convicted of a felony for drug possession, distribution or use;
- ~~(13)~~(12) Any person whose license for a medical marijuana business in another city, city and county or state has been revoked;
- ~~(14)~~(13) Any licensed physician making patient recommendations;
- ~~(15)~~(14) Any entity whose directors, shareholders OWNING TEN PERCENT (10%) OR MORE OF THE STOCK OF THE ENTITY, partners or other persons having a financial interest in said entity do not meet the criteria set forth above; or
- ~~(16)~~(15) Any person who has made a false, misleading or fraudulent statement on his or her application.

Section 2. Section 18-14-18 of the Northglenn Municipal Code is amended to read as follows:

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 FORTY-FIVE (45) ~~thirty (30)~~ days after any such transfer or change. A transfer application shall be required for any transfer of the capital stock of a corporation or any other interest 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, directors or manager, and a license addendum is required to be filed with the State that does not require a transfer application in accordance with subsection (b) above, an application fee in

the amount determined by the City by separate resolution shall be paid to the City at the time of filing the addendum with the City.

Section 3. Section 18-16-14 of the Northglenn Municipal Code is amended to read as follows:

Section 18-16-14. Persons prohibited as licensees and employees.

- (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 OWNING TEN PERCENT (10%) OR MORE OF THE STOCK OF THE ENTITY 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)~~(9) Any person who has discharged a sentence for a felony conviction within the past five (5) years;
 - ~~(11)~~(10) 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)~~(11) Any entity whose directors, shareholders OWNING TEN PERCENT (10%) OR MORE OF THE STOCK OF THE ENTITY, partners or other persons having a financial interest in said entity do not meet the criteria set forth above;

- ~~(13)~~(12) 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)~~(13) Any person who has made a false, misleading or fraudulent statement on his or her application.
- (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)~~(3) Any person who has discharged a sentence for a felony conviction within the past five (5) years;
 - ~~(5)~~(4) 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)~~(5) Any sheriff, deputy sheriff, police officer, prosecuting officer, and state or local licensing authority or any of its members, inspectors or employees.
- (c) Jurisdiction.
- (1) In investigating the qualifications described herein, 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 (c)(1) of this Section, "criminal justice agency" means any federal, state, or municipal court or any governmental agency or sub-unit of such agency that performs the administration of criminal justice

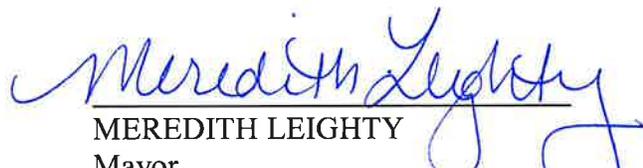
pursuant to a statute or executive order and that allocates a substantial part of its annual budget to the administration of criminal justice.

Section 4. Section 18-16-20 of the Northglenn Municipal Code is amended to read as follows:

Section 18-16-20. 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 18-16-19 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 retail marijuana establishment that is the subject of the license. Such report must be filed with the local licensing authority within FORTY-FIVE (45) ~~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 retail marijuana establishment that is the subject of a license shall be a person who has discharged a sentence for a felony conviction within the past five (5) years, or who 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.
- (c) Whenever any licensee causes a change in its officers, directors or manager, and a license addendum is required to be filed with the State, an application fee in an amount determined by the City by separate resolution shall be paid to the City at the time of filing the addendum with the City.

INTRODUCED, READ AND ORDERED POSTED this 13th day of January, 2020.


MEREDITH LEIGHTY
Mayor

ATTEST:


JOHANNA SMALL, CMC
City Clerk

PASSED ON SECOND AND FINAL READING this ____ day of _____,
2020.

MEREDITH LEIGHTY
Mayor

ATTEST:

JOHANNA SMALL, CMC
City Clerk

APPROVED AS TO FORM:



COREY Y. HOFFMANN
City Attorney