

Draft Text
Denver Medical Marijuana Dispensary Licensing Ordinance

Amend Chapter 24, D.R.M.C. (“Health and Sanitation”) by adding a new Article XI, to read as follows:

Article XI. Medical Marijuana Dispensaries

Sec. 24-401. Purpose and legislative intent. Although the possession and use of marijuana is and remains unlawful under Federal law, Section 14 of Article XVIII of the Colorado Constitution (“Amendment 20”) provides an exception to prosecution under state criminal laws when marijuana is possessed and used for medicinal purposes by a patient who has been diagnosed with a debilitating medical condition and by the patient’s primary caregivers. Amendment 20 does not, however, contain any provision for the lawful sale or distribution of marijuana to patients and, to date, the State of Colorado has failed to adopt laws or regulations to clearly explain how and whether marijuana may be lawfully sold or otherwise distributed to patients. As a result of this ambiguity in the State law, unregulated medical marijuana dispensaries have proliferated in Denver and elsewhere in Colorado. The purpose of this Article is to license and regulate medical marijuana dispensaries in the interest of public health, safety and general welfare. In particular, this Article is intended to regulate the sale and distribution of marijuana in the interest of patients who qualify to obtain, possess and use marijuana for medical purposes under Amendment 20, while promoting compliance with other state laws that prohibit trafficking in marijuana for non-medical purposes. Nothing in this article is intended to promote or condone the sale, distribution, possession or use of marijuana in violation of any applicable law. Compliance with the requirements of this article shall not provide a defense to criminal prosecution under any applicable law. Persons who cultivate, possess, sell, distribute, purchase, or use marijuana, whether for medical or non-medical purposes, do so at their own risk of prosecution under any applicable federal, state or local law.

Sec. 24-402. Definitions. The following words and phrases, when used in this article, shall have the meanings respectively assigned to them:

- (1) *Director* means the director of the department of excise and licenses, or the director’s duly authorized representative.
- (2) *Marijuana* shall have the same meaning as is set forth in section 38-175 (c).
- (3) *Medical Marijuana dispensary* means a business that sells or otherwise distributes marijuana through one or more primary care-givers to six (6) or more patients for medical use, along with any cultivation of marijuana associated with such sale or distribution. The term “medical marijuana dispensary” shall not include any person or entity that distributes marijuana for medical use exclusively to five (5) or fewer patients, and shall not include the private possession and medical use of marijuana by an individual patient to the extent permitted by Article XVIII, Section 14 of the Colorado Constitution and any other applicable state law or regulation.
- (4) *Medical use* shall have the same meaning as is set forth in Article XVIII, Section 14(1)(b) of the Colorado Constitution, or as may be more fully defined in any applicable state law or regulation.

- 1 (5) *Patient* shall have the same meaning as is set forth in Article XVIII, Section 14(1)(d) of the
2 Colorado Constitution, or as may be more fully defined in any applicable state law or regulation.
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4 (6) *Primary care-giver* shall have the same meaning as is set forth in Article XVIII, Section 14(1)(f)
5 of the Colorado Constitution, or as may be more fully defined in any applicable state law or
6 regulation.
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8 (7) *School or child care establishment* means any public or private school meeting all requirements
9 of the compulsory education laws of the state and providing instruction to students in
10 kindergarten through grade twelve; any public or private schools or pre-schools that provide
11 preparatory schooling for children of any age younger than the state age of mandatory
12 attendance; or any child care establishment as defined by and regulated under Chapter 11 of this
13 Code.
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16 **Sec. 24-403. License Required.**
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- 18 (a) On and after [March, 1, 2010] it shall be unlawful for any person to sell or otherwise distribute
19 any marijuana for medical use without obtaining a license to operate as a medical marijuana
20 dispensary pursuant to the requirements of this article. This licensing requirement shall apply
21 regardless of whether or not a medical marijuana dispensary has commenced operation prior to
22 said date.
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24 (b) The license requirement set forth in this article shall be in addition to, and not in lieu of, any
25 other licensing and permitting requirements imposed by any other federal, state, or city law
26 including, by way of example, a retail sales tax license, a retail food establishment license if
27 applicable, any applicable zoning or building permit, and an alarm system permit.
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31 **Sec. 24-404. General licensing procedures.**
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33 Except as otherwise specifically provided in this article, the general procedures and requirements for
34 issuance and administration of licenses by the director, as more fully set forth in Article I of Chapter 32,
35 shall apply to medical marijuana dispensary licenses. To the extent there is any conflict between the
36 provisions of this article and Article I of Chapter 23, the provisions of this article shall control.
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38 **Sec. 24-405. Application.**
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- 40 (a) Application for a medical marijuana dispensary license shall be made to the director upon
41 forms provided by the director for that purpose. In addition to the information required by Chapter 32 of this
42 Code, the application shall include the following information:
43
44 (1) Name and address of the owner or owners of the medical marijuana dispensary in whose name
45 the license is proposed to be issued.
46
47 (2) If the owner is a corporation, the name and address of any officer or director of the corporation,
48 and of any person holding twenty percent (20%) or more of the issued and outstanding capital
49 stock of the corporation.
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- 1 (3) If the owner is a partnership, association or company, the name and address of any member
2 holding twenty percent (20%) or more of the interest therein.
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- 4 (4) Name and address of any manager or managers of the medical marijuana dispensary, if the
5 manager is proposed to be someone other than the owner. The application shall also contain 24-
6 hour contact information for the manager or managers of the licensed premises which shall be
7 made available to the general public in order to provide a prompt response to public questions
8 and concerns about the operation of the licensed premises.
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- 10 (5) A statement of whether or not any of the foregoing persons have:
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- 12 a. Been denied an application for a medical marijuana dispensary license pursuant to this
13 article of any similar state or local licensing law, or had such a license suspended or
14 revoked.
 - 15 b. Been convicted of a felony, or of violating any other federal, state or local law governing
16 the manufacture, distribution, possession or use of controlled substances [**Subject to**
17 **further discussion of convictions that will disqualify a licensee.**]
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- 19 (6) Proof of ownership or legal possession of the licensed premises for the term of the proposed
20 license. If the licensed premises will be leased, the application shall include written consent by the
21 owner of the property to the licensing of the premises for a medical marijuana dispensary.
22
- 23 (7) An operating plan for the proposed medical marijuana dispensary including the following
24 information:
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- 26 b. A narrative description of the ownership and organizational structure of the medical
27 marijuana dispensary.
 - 28 c. A description of the products and services to be provided by the medical marijuana
29 dispensary, including an indication of whether or not the dispensary proposed to engage
30 in the retail sale of food for human consumption.
 - 31 d. A projection of the number of patients to be served by the primary care-givers in the
32 medical marijuana dispensary.
 - 33 e. A floor plan, drawn to scale, showing the layout of the medical marijuana dispensary and
34 the principle uses of the floor area depicted therein.
 - 35 f. A security plan indicating how the applicant intends to comply with the requirements of
36 section 24-408 (d).
37
- 38 (8) An area map, drawn to scale, indicating, within a radius of one-quarter mile from the boundaries
39 of the property upon which the medical marijuana dispensary is located, the proximity of the
40 property to any school or child care establishment, to any other medical marijuana dispensary, or
41 to any residential zone district.
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- 43 (b) Any application for a medical marijuana dispensary permit shall be accompanied by the
44 application fee, criminal background check fee, and annual fee as required by section 32-93.
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- 46 (c) Upon receipt of an application for a medical marijuana dispensary license, the director shall
47 circulate the application to the Department of Community Planning and Development, the Department of
48 Finance, the Department of Environmental Health, the Denver Police Department, and the Denver Fire
49 Department to determine whether the proposed dispensary is in full compliance with any and all laws, rule
50 and regulations administered by the respective departments.

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(d) The director shall perform a criminal background investigation for each applicant or manager to determine compliance with section 24-406.

(e) The director shall perform an inspection of the proposed licensed premises to determine compliance with any applicable requirement of this article.

(f) The director shall deny any application for a license that is not in full compliance with this article, any other applicable city law or regulation, or any state law or regulation governing medical marijuana dispensaries. The director shall also deny any application that contains any false or incomplete information.

24-406. Persons prohibited as licensees and managers.

- (a) No license provided by this article shall be issued or held by:
 - (1) Any person who, in the immediately proceeding twelve months had a medical marijuana dispensary license revoked by the city.
 - (2) Any person who has been convicted of a **[Subject to further discussion of the type of criminal convictions that would disqualify a licensee.]** with this prohibition applying to:
 - a. Any owner who is a natural person.
 - b. If the owner is a corporation, any officer or director of the corporation, and any person holding twenty percent (20%) or more of the issued and outstanding capital stock of the corporation.
 - c. If the owner is a partnership, association or company, any member holding twenty percent (20%) or more of the interest therein.

(b) No licensed premises shall be managed by any person who has been convicted of a **[Subject to further discussion of the type of criminal convictions that would disqualify a manager.]**

24-407. Prohibited locations.

- (a) All medical marijuana dispensary licenses shall be issued for a specific fixed location which shall be considered the licensed premises. All sales or distribution of medical marijuana shall be made directly by a primary care-giver to a patient upon the licensed premises, or via personal delivery of the medical marijuana by the primary care-giver from the licensed premises to the patient at the patient's residence.
- (b) No medical marijuana dispensary license shall be issued for the following locations:
 - (1) In any residential zone district as defined by the zoning code of the city, or in any other location where retail sales are prohibited by the zoning code.

- (2) For any medical marijuana dispensary that commenced operation on or after December 1, 2010, within five hundred (500) feet of any school or child care establishment, with the distance being measured in a straight line from the nearest point on the building containing the dispensary to the nearest point on the building containing the school or child care establishment.
- (3) For any medical marijuana dispensary that commenced operation on or after December 1 2010, within one thousand (1,000) feet of any other medical marijuana dispensary, with the distance being measured from the nearest point on the building containing the dispensary to the nearest point on the building containing the other dispensary.

24-408. Requirements related to licensed premises.

- (a) No marijuana shall be smoked, eaten or otherwise consumed or ingested on the licensed premises.
- (b) No person under eighteen years of age shall be permitted on the licensed premises, unless the person has been qualified to possess marijuana for medical use in accordance with Article XVIII, Section 14 (6) of the Colorado Constitution and the person is accompanied by a parent.
- (c) The name and contact information for the owner or owners and any manager of the medical marijuana dispensary shall be conspicuously posted in the dispensary.
- (d) Any and all cultivation, processing, storage, display, sales or other distribution of marijuana shall occur within an enclosed building and shall not be visible from the exterior of the building.
- (e) No licensed premises shall be managed by any person other than the owner or the manager listed on the application for the license.
- (f) The medical marijuana dispensary shall be closed to the public, and no sale or other distribution of marijuana shall occur upon the licensed premises or via delivery from the licensed premises between the hours of 11 p.m. and 11 a.m.
- (g) The licensed premises shall be monitored and secured 24-hours per day including, at a minimum, the following security measures:
 - (1) Extra security for window, doors and any other point of ingress to prevent unauthorized entry, which may include extra locking devices, bars, or similar measures.
 - (2) Installation and use of security cameras to monitor all areas of the licensed premises where persons may gain or attempt to gain access to marijuana or cash maintained by the medical marijuana dispensary. Recordings from security cameras shall be maintained for a minimum of seventy-two hours in a secure off-site location.
 - (3) Installation and use of a safe for overnight storage of any processed marijuana, cash, and patient records maintained on the licensed premises.
 - (4) Installation of a monitored user alarm system pursuant to Division 2 of Article IV of Chapter 42 of this Code.
- (h) Cultivation and processing of marijuana upon the licensed premises shall be permitted only when the premises are equipped with a ventilation system that filters out the odors of the marijuana so it is not

1 detectable from the exterior of the building or from any adjoining premises. Approval of such a system from
2 the building department is required prior to the cultivation or processing of marijuana beginning on the
3 licensed premises.

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5 **24-409. Requirements related to public health and labeling.**

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7 (a) All marijuana sold or otherwise distributed by the licensee shall be packaged and labeled in a
8 manner that indicates the quantity and type of marijuana dispensed, and advises the purchaser that the
9 marijuana is intended for use solely by the patient to whom it is sold, and that any re-sale or re-distribution
10 of the marijuana to any third person is a criminal violation.

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12 (b) Any licensee selling marijuana in the form of prepared food shall be required to obtain a
13 retail food establishment license issued by the Department of Environmental Health in accordance with
14 Article III of Chapter 23 of this Code. The licensee shall comply with any and all applicable state and local
15 health regulations related to the preparation, labeling, and sale of prepared food items.

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17 **24-410. Compliance with state law.**

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19 (a) To the extent the state has adopted or adopts in the future any additional or stricter law or
20 regulation governing the sale or distribution of marijuana for medical purposes, the additional or stricter
21 regulation shall control the establishment or operation of any medical marijuana dispensary in the city.
22 Compliance with any applicable state law or regulation shall be deemed an additional requirement for
23 issuance or denial of any license under this article, and non-compliance with any applicable state law or
24 regulation shall be grounds for revocation of any license issued hereunder.

25
26 (b) Any medical marijuana dispensary licensed pursuant to this article, may be required to prove,
27 upon demand by the director or by law enforcement, that the source and quantity of any marijuana found
28 upon the licensed premises is in full compliance with any applicable state law or regulation.

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30 (c) If the state prohibits the sale or other distribution of marijuana through medical marijuana
31 dispensaries, any license issued pursuant to this article shall be deemed to be immediately revoked by
32 operation of law, with no ground for appeal or other redress on behalf of the licensee.

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34 (d) The issuance of any license pursuant to this article shall not be deemed to create an exception,
35 defense, or immunity to any person in regard to any potential criminal liability the person may have for the
36 cultivation, possession, sale, distribution, or use of marijuana.

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39 Amend Article II of Chapter 32 concerning License Fees by adding a new section 32-93, to read as follows:

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41 **Sec. 32-93. Medical marijuana dispensaries.**

42
43 Application and license fees for medical marijuana dispensaries are as follows:

- 44
45 (1) Application fee \$2,000
46 (2) Criminal background check fee, per person checked Actual costs
47 (3) License fee, per year \$3,000