

ORDINANCE NO. 046, 2010
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING ARTICLE XVI, CHAPTER 15 OF THE CODE
OF THE CITY OF FORT COLLINS RELATING TO MEDICAL MARIJUANA

WHEREAS, on March 16, 2010, the City Council adopted Ordinance No. 025, 2010, adding a new Article XVI to Chapter 15 of the City Code, which article establishes certain regulations governing the licensing, location and operation of medical marijuana businesses (the "Regulations"); and

WHEREAS, the Regulations require, among other things, that the cultivation activities of medical marijuana businesses be conducted primarily at cultivation facilities that are separate from the medical marijuana dispensaries and located in the Industrial zone districts of the City; and

WHEREAS, on March 16, 2010, the City Council also adopted Ordinance No. 026, 2010, amending the City's Land Use Code to, among other things, add medical marijuana cultivation facilities as a permitted use in the Industrial zone district; and

WHEREAS, industry representatives have indicated that there is a lack of available building space for rent or purchase for medical marijuana cultivation facilities in the Industrial zone districts of the City; and

WHEREAS, in response to these concerns, the City Council has directed City staff to formulate recommendations as to additional zone districts where medical marijuana cultivation facilities might be located and to also consider the possibility of allowing, in certain areas of the City, medical marijuana dispensaries and cultivation facilities to be located on the same legal parcel and even in the same building; and

WHEREAS, pursuant to this direction, City staff has recommended that cultivation facilities be allowed not only in the Industrial zone district, but also in the additional zone districts specified in Ordinance No. 045, 2010, which has been approved by the City Council on first reading this same date; and

WHEREAS, because medical marijuana dispensaries are, under Ordinance No. 026, 2010, allowed in the C-S, C-C-N, and R-D-R zone districts, the proposed amendments to the Land Use Code would allow for the possibility of combining a dispensary and a cultivation facility on the same site, which would reduce the cost of establishing and operating such a business in the City; and

WHEREAS, in order to accommodate the co-location of dispensaries and cultivation facilities on the same site, certain changes must be made to the recently enacted provisions of Chapter 15, Article XVI of the City Code; and

WHEREAS, the Regulations exempt from the licensing requirements of Chapter 15, Article XVII, primary caregivers who cultivate, possess or dispense medical marijuana for use by a single patient and patients who cultivate or possess medical marijuana for their own medical use; and

WHEREAS, several such primary caregivers and patients have inquired of the City as to the need for a medical marijuana business license if they join together with other primary caregivers or patients to cultivate medical marijuana; and

WHEREAS, City staff has recommended, and Council agrees, that these kinds of collective cultivation facilities should be regulated by the City, even if the primary caregivers and patients who operate such facilities would individually be exempt from licensing; and

WHEREAS, the Regulations limit to two ounces the amount of medical marijuana that may lawfully be purchased by licensees from any source within any seven day period of time; and

WHEREAS, the purpose of this regulation is to help curtail the sale of marijuana for purposes other than medical use; and

WHEREAS, City staff has concluded that this limitation may be more restrictive than necessary and has recommended to the City Council that the maximum quantity of medical marijuana that may be sold by licensees to other licensees be increased from two ounces to four ounces within a seven day period of time; and

WHEREAS, City staff has also recommended some other minor changes to the Regulations.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That Section 15-452 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 15-452. License required; exemption.

(a) Except as provided in Subsection (b) of this Section, it shall be unlawful for any person to establish or operate a medical marijuana business in the City without first having obtained a license for such business from the City Manager. Such license shall be kept current at all times, and the failure to maintain a current license shall constitute a violation of this Section.

(b) Except as provided in Subsection (c) of this Section, primary caregivers who cultivate, possess or dispense medical marijuana for use by a single patient and patients who cultivate or possess medical marijuana for their own medical use, are exempt from the licensing requirements of this Article, but are subject to the following limitations:

- (1) All such cultivation shall be conducted entirely within a building or other fully enclosed structure.
- (2) Not more than twelve (12) marijuana plants may be cultivated or kept at any dwelling unit, of which no more than six (6) plants may be mature.
- (3) In no event shall a patient or primary caregiver keep, cultivate, grow or process more medical marijuana than such person is entitled to possess under Amendment 20.

(c) Any primary caregiver or patient who would otherwise be exempt from the licensing requirements of this Article under Subsection (b) of this Section and who joins together with one (1) or more other primary caregivers or patients to establish, operate, manage or otherwise participate in the activities of a medical marijuana cultivation facility shall be subject to the licensing requirements of this Article. Accordingly, it shall be unlawful for any primary caregiver or patient to engage in such collective activity at a cultivation facility without first having obtained a license for a medical marijuana business as required under Subsection (a) of this Section.

Section 2. That Section 15-453 (11) of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 15-453. Requirements of application for license; payment of application fee; denial of license.

...

- (11) a comprehensive business operation plan for the medical marijuana business which shall contain, without limitation, the following:

...

Section 3. That Section 15-465 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 15-465. Cultivation, growing and processing by licensees.

(a) The cultivation, growing, processing, display or storage of marijuana plants within a medical marijuana dispensary shall be limited to nonflowering plants.

(b) Except as permitted under Subsection (a) of this Section, the cultivation, growing, processing, display or storage of marijuana plants by a licensee shall be conducted only at the cultivation facility shown on the licensee's application.

(c) Access to any cultivation facility that is located in the same building as a dispensary shall be secured so as to render the cultivation facility inaccessible to

patients during all hours of operation of the dispensary. All such cultivation facilities shall be independently ventilated so as to prevent odors, debris and dust from entering the dispensary.

(d) To the extent permitted by law, the City shall keep confidential the location of all cultivation facilities.

Section 4. That Section 15-469 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 15-469. Prohibited acts.

It shall be unlawful for any licensee to:

- (1) employ any person to manage a medical marijuana dispensary or cultivation facility or to dispense medical marijuana who is not a patient or primary caregiver at least twenty-one (21) years of age or who has a criminal history as described in Paragraph 15-455 (a)(2);
- (2) sell, give, dispense or otherwise distribute medical marijuana to anyone other than a patient, primary caregiver, licensee or medical marijuana business that is licensed in another jurisdiction in the State;
- (3) sell, give, dispense, or otherwise distribute to any patient or primary caregiver who is not a licensee more than two (2) ounces of any usable form of medical marijuana within any seven-day period of time;
- (4) sell, give dispense, or otherwise distribute to another licensee, or to any medical marijuana business that is licensed in another jurisdiction in the State, more than four (4) ounces of medical marijuana in any usable form within any seven-day period of time;
- (5) purchase or otherwise obtain medical marijuana from any source that is not properly authorized under state and local law to sell or dispense medical marijuana;
- (6) purchase or otherwise obtain from any licensee or from any medical marijuana business that is licensed in another jurisdiction in the State more than four (4) ounces of medical marijuana in any usable form within any seven-day period of time;
- (7) permit on the licensed premises any person other than:
 - a. the licensee, the licensee's manager, employees and financial interest holders,

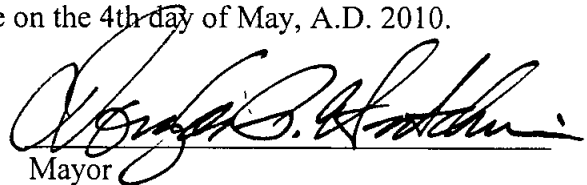
- b. a patient in possession of a registry identification card or its functional equivalent under Section 14(3)(d) of Amendment 20,
- c. a minor patient accompanied by a parent or lawful guardian in possession of the minor patient's registry identification card,
- d. a minor accompanied by a parent or legal guardian who is a patient,
- e. a primary caregiver in possession of his or her patient's registry identification card or its functional equivalent under Section 14(3)(d) of Amendment 20 and the patient's written designation of said person as the patient's primary caregiver, as submitted to the Colorado Department of Public Health and Environment,
- f. a person whose physical presence and assistance are necessary to assist a patient,
- g. a person who is actively engaged in the maintenance, repair or improvement of the licensed premises or in the provision of accounting or other professional services directly related to the conduct of the licensee's medical marijuana business, or
- h. law enforcement officers, inspectors and other officials or employees of any federal, state or local government or agency engaged in the lawful performance of their official duties;

(6) dispense medical marijuana in or upon its cultivation facility;

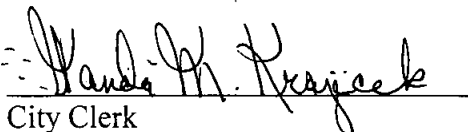
(7) permit the sale or consumption of alcohol beverages on the licensed premises; or

(8) post or allow to be posted signs or other advertising materials identifying cultivation facilities as being associated with the use or cultivation of marijuana.

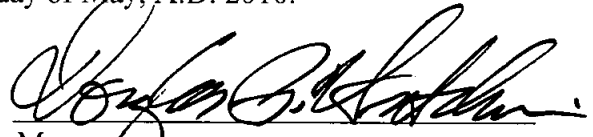
Introduced, considered favorably on first reading, and ordered published this 20th day of April, A.D. 2010, and to be presented for final passage on the 4th day of May, A.D. 2010.


Mayor

ATTEST:

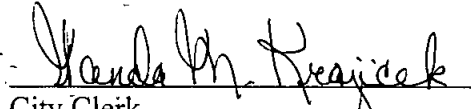

City Clerk

Passed and adopted on final reading on the 4th day of May, A.D. 2010.



Mayor

ATTEST:



City Clerk