

## **SUBJECT**

Items Relating to Medical Marijuana Businesses.

- A. Second Reading of Ordinance No. 018, 2011, Authorizing the Continuing Operation of Existing Medical Marijuana Businesses.
- B. Second Reading of Ordinance No. 019, 2011, Making Certain Amendments to Chapter 15, Article XVI of the City Code Governing the Licensing, Number, Location and Operation of Medical Marijuana Businesses, and Adding a New Article Governing the Cultivation of Medical Marijuana by Primary Caregivers and Patients.
- C. Second Reading of Ordinance No. 020, 2011, Amending the City's Land Use Code by Adding Medical Marijuana- Infused Product Manufacturing Facilities as Permitted Uses in Various Zones Districts, and Renaming Dispensaries and Cultivation Facilities.

## **EXECUTIVE SUMMARY**

These three ordinances are being presented to Council to further clarify, regulate, and align medical marijuana businesses to the State regulations and to the intent of previous local ordinances.

Ordinance No. 018, 2011, adopted on First Reading on February 22, 2011, by a vote of 6-1 (nays: Troxell) allows for existing medical marijuana businesses that have met all requirements and paid appropriate fees to both the City and the State to continue operating, even if such businesses do not meet the required zoning and location requirements.

Ordinance No. 019, 2011, unanimously adopted on First Reading on February 22, 2011, amends the provisions of Chapter 15, Article 16 and 17 of the City Code to align the City's local regulations with the Colorado Medical Marijuana Code, to adopt certain additional, more restrictive regulations as permitted under state law, and to adopt local regulations for primary caregivers.

Ordinance No. 020, 2011, unanimously adopted on First Reading on February 22, 2011, amends the Land Use Code to add a definition for a Medical Marijuana - Infused Products Manufacturing Facility, to add the use of such facility to the list of permitted uses in the appropriate zones, and to rename dispensaries and cultivation facilities to be consistent with the Colorado Medical Marijuana Code.

## **BACKGROUND / DISCUSSION**

At Council's request the following changes have been made to Ordinance No. 019, 2011:

- The cap on the number of available licenses has been removed.
- In Section 15-488, nonrenewal, suspension or revocation of license, the words "suspend" and "revoke", which were struck in error on First Reading, have been restored.
- Staff has proposed to address the 8 ounce limit between licensed centers and concerns of crop failure by removing the limit which centers can buy or receive, but maintaining the 8 ounce limit in relation to sales. Centers would then be able to buy any quantity but could not sell more than 8 ounces.

Staff has also notified the protected uses as identified in a motion during First Reading that those locations are near a Center eligible for grandfathering. An online comment box was established to receive email comments. As of the time of printing the agenda, no comments have been received. Recipients were also encouraged to attend Second Reading.

**STAFF RECOMMENDATION**

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Staff recommends adoption of the Ordinances on Second Reading.

**ATTACHMENTS**

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1. Copy of First Reading Agenda Item Summary - February 22, 2011  
(w/o attachments)
2. Response to SAR # 15656 - Rational for More Restrictive Provisions
3. Powerpoint presentation

**DATE:** February 22, 2011  
**STAFF:** Peter Barnes, Steve Dush, Rita Harris,  
 Allen Heaton, Linda Samuelson,  
 Ginny Sawyer, Jerry Schiager

## AGENDA ITEM SUMMARY FORT COLLINS CITY COUNCIL

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### SUBJECT

Items Relating to Medical Marijuana Businesses.

- A. First Reading of Ordinance No. 018, 2011, Authorizing the Continuing Operation of Existing Medical Marijuana Businesses.
- B. First Reading of Ordinance No. 019, 2011, Making Certain Amendments to Chapter 15, Article XVI of the City Code Governing the Licensing, Number, Location and Operation of Medical Marijuana Businesses, and Adding a New Article Governing the Cultivation of Medical Marijuana by Primary Caregivers and Patients.
- C. First Reading of Ordinance No. 020, 2011, Amending the City's Land Use Code by Adding Medical Marijuana-Infused Product Manufacturing Facilities as Permitted Uses in Various Zones Districts, and Renaming Dispensaries and Cultivation Facilities.

### EXECUTIVE SUMMARY

These three ordinances are being presented to Council to further clarify, regulate, and align medical marijuana businesses to the State regulations and to the intent of previous local ordinances.

Ordinance No. 018, 2011, will allow for existing medical marijuana businesses that have met all requirements and paid appropriate fees to both the City and the State to continue operating, even if such businesses do not meet the required zoning and location requirements.

Ordinance No. 019, 2011, will amend the provisions of Chapter 15, Article 16 and 17 of the City Code to align the City's local regulations with the Colorado Medical Marijuana Code, to adopt certain additional, more restrictive regulations as permitted under state law, and to adopt local regulations for primary caregivers.

Ordinance No. 020, 2011, will amend the Land Use Code to add a definition for a Medical Marijuana - Infused Products Manufacturing Facility, to add the use of such facility to the list of permitted uses in the appropriate zones, and to rename dispensaries and cultivation facilities to be consistent with the Colorado Medical Marijuana Code.

### BACKGROUND / DISCUSSION

Since March 2010, City Council has adopted numerous ordinances related to the operation and regulation of medical marijuana businesses (MMBs) in Fort Collins. On June 7, 2010, the State of Colorado passed the Colorado Medical Marijuana Code, which regulates MMBs and allows for municipalities to adopt more restrictive regulations or even to ban such businesses, and imposes a moratorium on any new applications until July 1, 2011.

Under Ordinance No. 25, 2010, existing MMBs in Fort Collins had until June 30, 2010, to submit an application for a business license. The City has so far inspected and issued provisional licenses to 19 medical marijuana centers (formerly known as medical marijuana dispensaries), and 10 associated optional premises cultivation facilities (formerly known as medical marijuana cultivation facilities), with 21 more locations (4 centers and 17 cultivation facilities) that are pending approval. An additional requirement imposed on these businesses under state law is that the applicant must apply and pay fees to the State by August 2010. The City currently has four outstanding applications that could potentially bring the total number of centers to 23.

In August 2010, Council passed a resolution which delayed the decision as to whether existing MMBs should be allowed to remain in their current locations and as to when, if at all, applications for new MMBs should be accepted

by the City until additional information was gathered on the number of existing local businesses that were eligible for licensing under state law.

Of the 19 medical marijuana centers that have provisional licenses issued by the City, only two meet all of the zoning and separation requirements. One additional center, which is not yet licensed, also meets all zoning and separation requirements. Ordinance No. 018, 2011, proposes allowing all current licensed centers to remain in their current locations or in new, conforming locations. Ordinance No. 019, 2011, proposes limiting the total number of allowable center licenses available in Fort Collins to 23. This would honor the good faith business investments made by MMBs that were in operation prior to our current regulations while addressing the concerns heard from citizens.

The surrounding municipalities, including Larimer County, Loveland, Longmont, Windsor, and Greeley, have all banned or continued their moratoriums on marijuana related businesses. This has placed additional pressure on Fort Collins from those individuals looking for a location to start a MMB. Capping the total allowable number of MMB licenses in Fort Collins provides a means to prevent Fort Collins from becoming a regional MMB capital. If all the local medical marijuana centers that have applied to the state are licensed, there would be a capacity to serve 7,600 patients. At last report, there were 116,000 patients in the state; 8 to 10% of the state patients have historically resided in Larimer County; and Fort Collins has about 47% of the population of the county. Using these figures, a generous estimate of the total number of patients in Fort Collins is about 5,482. While the exact figures are not available, it is apparent that the current number of centers can easily provide for the patients that reside in Fort Collins, especially since primary caregivers could grow medical marijuana for up to five patients each and patients could also opt to grow medical marijuana for themselves.

Ordinance No. 019, 2011, implements and aligns definitions, language, and regulations with state law. Additionally, it allows for the licensing of a new type of business for persons who manufacture medical marijuana-infused products (such as baked goods, tinctures, and beverages) in conformity with state law. Further, it creates a medical marijuana licensing authority as required by state law, removes duplicative regulations by eliminating those that are already covered in state law, and adds a number of more restrictive provisions than exist under state law. The following are some examples of more restrictive provisions:

- Limits any applicant to only two medical marijuana center licenses in the City.
- Caps the total number of allowable centers in the City.
- Maintains the existing local separation requirements and measuring techniques, both of which are more restrictive than the State.
- Requires the reporting of all disturbances and unlawful activity at any MMB licensed facility.
- Limits the type of plants, clones, or seedlings that centers may sell.
- Requires all cultivation facilities within the City to have a center in Fort Collins.
- Allows for the exchange of no more than 8 oz. of medical marijuana per seven-day period between licensed centers. (This relaxes the previous local limit of 4 oz.)
- Continues the current local limit on the amount of medical marijuana that can be dispensed to patients or primary care givers (2 oz. within a seven-day period).
- Requires all cultivation of medical marijuana to be conducted entirely within a building or other fully enclosed structure.
- Prohibits the cultivation of any medical marijuana within any duplex or multi-family dwelling, or within any structure that is located on the same legal parcel as a duplex or multi-family dwelling.
- Imposes a twelve (12) marijuana plant count, including no more than six (6) mature plants, that may be cultivated or kept within, or on the same legal parcel as, any single-family dwelling.

- Establishes the following local regulations for manufacturers of medical-infused products:
  - prohibits the operation of a medical marijuana-infused products manufacturer in the City unless such manufacturer also operates a center in the City;
  - prohibits the posting of signs or other advertising materials identifying the premises as being associated with the production or use of medical marijuana; and
  - requires that all products produced by a medical marijuana-infused products manufacturer be sold only through a center under the same ownership.

In prior ordinances, the City did not address provisions for the manufacturing of medical marijuana-infused products. Since the State law now allows for the licensing of a medical marijuana-infused products manufacturer and because staff has been informed by local industry representatives that this is an important element of a MMB, Ordinance No. 020, 2011, adds a definition and allowable zone districts for this use. Medical marijuana-infused products manufacturing facilities are proposed to be allowed in the same zone districts as cultivation facilities, and like those facilities, would have no separation requirements.

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**FINANCIAL / ECONOMIC IMPACTS**

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Staff has identified only a few financial impacts. The time and effort to process MMB application and issue licenses was initially underestimated. Staff has been tracking the workload and anticipates raising fees to ensure that staff time is covered. If the number of MMB licenses is limited, those individuals looking to start a business in Fort Collins could be financially impacted. In 2010, the City received approximately \$260,000 in sales tax revenue from MMBs.

**STAFF RECOMMENDATION**

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Staff recommends adoption of all three ordinances on First Reading.

**BOARD / COMMISSION RECOMMENDATION**

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The Planning and Zoning Board discussed the proposed Ordinance No. 020, 2011, amending the Land Use Code, at its work session on Friday, February 11. The Board will hear the item at its regular meeting on Thursday, February 17. Draft minutes of the Board's decision will be provided in the read-before packet on February 22, 2011.

**PUBLIC OUTREACH**

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Staff has worked collaboratively with a newly formed Dispensary Owners Council. Staff also informed the Health District, the North Fort Collins Business Association, and the Campus Community Coalition of these recommendations. Updates have also been maintained on the MMB web site at fcgov.com.

**ATTACHMENTS**

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1. Maps and Descriptions of Center Locations in Relation to Allowable Zoning and Separation Requirements
2. Powerpoint presentation

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### SAR #15656/MMB Restrictive Provisions

More restrictive provisions from February 22, 2011 AIS:

- **Limits any applicant to only two medical marijuana center licenses in the City.**  
In early drafts of the original licensing provisions the initial thought was to limit an applicant to one license, similar to the Liquor Code which only allows one liquor store per owner. After a focus group and feedback from the MMJ industry, staff changed it to three. In light of a provision in the State law that requires each licensing authority (local and state), with respect to a second or additional license for the same licensee, to consider the effect on competition when granting a second or additional license and requires that the licensing authority not approve an application for a second or additional license that would have the effect of restraining competition, staff decided to be proactive in reducing the number from three to two.
- **Caps the total number of allowable centers in the City.**  
This has been removed following First Reading.
- **Maintains the existing local separation requirements and measuring techniques, both of which are more restrictive than the State.**  
Staff proposed the separation requirements, which were adopted by Council, based on community feedback, a desire to avoid undue concentration in any one area, and research of what other communities were considering proposing at the time. The measuring technique is standard for other City practices and allows location acceptability to be determined by GIS as opposed to allocating staff resources to visit sites for the purposes of walking out the measurements or requiring applicants to hire a qualified professional to complete the measurements.
- **Requires the reporting of all disturbances and unlawful activity at any MMB licensed facility.**  
This provision is similar to the Liquor Code and is desired by Police Services both for safety and for data collection. It expands a state proposed regulation which requires licensees to report any criminal actions, rule violations or other suspicious acts involving the sale, cultivation, distribution or manufacturing of medical marijuana or any medical marijuana infused products by any person to the State. Such reporting to the State does not provide desirable data to police services and does not provide an opportunity for local enforcement.
- **Limits the size of plants, clones, and seedlings that centers may sell.**  
Both the City and State have an interest in preventing centers from stocking their stores with full grown plants. Although there is proposed legislation limiting the number of plants that can be sold from a center to a patient in any three month period of time, that proposed legislation currently does not define those plants as clones, nor does it limit the size of the plants. At this time, it is not necessary to limit the actual number of plants since clones count toward the centers overall allowable plant count. However, there is a need to define and restrict the size of a clone that can be sold from a center.
- **Requires all cultivation facilities within the City to have a center in Fort Collins.**  
This provision was intended to keep out of town growers from coming to Fort Collins for the sole purpose of growing marijuana. Considering bans in surrounding communities, Fort Collins is getting a lot of

pressure from people who need to relocate their business or close completely. If we were to allow outside growers to come into Fort Collins to set up a grow operation that is not connected to a center in Fort Collins, we would be setting ourselves up for the potential of having multiple grow sites in Fort Collins without receiving the benefit of either sales tax collection or service to our residents.

- **Allows for the exchange of no more than 8oz of medical marijuana per seven-day period between licensed centers.**

We have amended this provision from the original ordinance to increase the number from 4 oz to 8 oz in Ord. No. 19. It allows the exchange between all licensed centers, whether inside or outside of Fort Collins, within a seven day period of time. There is no restriction on the amount of centers within which this 8 oz. exchange takes place. For example, a local center can trade with multiple centers both inside and outside of Fort Collins so long as it does not exceed the 8 oz. limit with each individual center or surpass the 30% restriction under state law. This restriction is a strong tool for law enforcement to prevent illegal marijuana distribution because it is an easy amount to track on a weekly basis. Fort Collins Police would not be able to track the 70/30 percentage amounts as easily because the state requirement does not have to be met on a weekly basis, but rather on an annual basis.

Additionally, we have heard from people in the industry that the concern over this restriction is mostly out of fear of a catastrophic crop failure. As a result of both a request by City Council and in response to concerns from people in the industry, staff is preparing an exemption under these circumstances.

- **Continues the current local limit on the amount of medical marijuana that can be dispensed to patients or primary caregivers to 2 oz. within a seven-day period.**

This provision is also intended as a law enforcement tool both for record checks and to prevent secondary sales. We have heard from numerous patients that this limit is not problematic. It is also consistent with state law in that it allows patients to have up to 2 oz in their possession.

- **Requires all cultivation of medical marijuana to be conducted entirely within a building or other fully enclosed structure.**

This provision is a safety measure. It requires all medical marijuana grown by licensees to be secured and out of public view. This is to protect licensees from potential invasions as well as to protect children from any unnecessary contact with marijuana plants. Home growers that might want to have plants outside would have a difficult time concealing and securing the plants with our existing fence limitations.

- **Prohibits the cultivation of any medical marijuana within any duplex or multi-family dwelling, or within any structure that that is located on the same legal parcel as a duplex or multi-family dwelling.**

Odor emissions have comprised the majority of medical marijuana complaints the City has received to date. To prohibit growing in dwelling units with shared walls protects residents from the smell and potential health and safety issues including mold, electrical wiring, fire hazards, etc. that may be associated with a grow.

**Imposes a twelve (12) marijuana plant count, including no more than six (6) mature plants, that may be cultivated or kept within, or on the same legal parcel as any single family dwelling.**

Allowing limited home growing was proposed to help patients. The 12 count limit helps law enforcement because there is a tangible number that is enforceable. Language has been extended in Ord. No. 19 to cover the entire parcel. This resulted from two particular cases where residents had large scale grows in outbuildings or other structures on the property.

## Proposed Ordinances Related to the Continued Operation of Medical Marijuana Businesses

City Council Meeting  
March 15, 2011

1



### First Reading Recap

Ordinance No. 018 – Authorizing Continued Operation of Existing MMBs passed 6-1.

Ordinance No. 019 – Changes to Chapter 15 (The Licensing Ordinance) passed 7-0.

Ordinance No. 020 – Amendment to the Land Use Code to address Medical Marijuana Infused Product Manufacturing passed 7-0.

2



## Proposed Ordinance No. 018

Grandfathers all current existing MMBs.

3



## Proposed Ordinance No. 019

Amends the original licensing provisions to implement and align definitions, language, and regulations with the State law.

Removes items that are addressed in the State Law.

Adds or maintains more restrictive provisions unique to Fort Collins.

4



## Proposed Ordinance No. 020

Amendments to the Land Use Code to define MIPs and the zones in which they would be allowed.

The use is proposed to be allowed in the same 5 zones that allow cultivation facilities (the RDR, CCN, CS, I, and the Riverside area of the CL).

Conforms language with the State.

5



## Directed Changes

Ordinance No. 019

The cap on the number of available licenses has been removed.

The words "suspend" and "revoke", which were struck in error on first reading, have been restored.

6



## Proposed Change

To address potential crop failure and to maintain mechanism to help law enforcement:

- Removes 8 oz limit on buying and receiving.
- Maintains 8 oz limit on selling.

7

City of  
Fort Collins

## Discussion

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City of  
Fort Collins

ORDINANCE NO. 018, 2011  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
AUTHORIZING THE CONTINUING OPERATION OF  
EXISTING MEDICAL MARIJUANA BUSINESSES

WHEREAS, on December 1, 2009, the City Council adopted Ordinance No. 128, 2009 (the "Moratorium Ordinance") imposing a moratorium on the establishment and operation of medical marijuana businesses in the City, pending City Council's consideration of local regulations for such businesses; and

WHEREAS, by adoption of Ordinance No. 025, 2010, (the "Licensing Ordinance") on March 16, 2010, the City Council added a new Article XVI to Chapter 15 of the City Code (the "Code") which established a comprehensive licensing system for medical marijuana businesses; and

WHEREAS, on that same date, the City Council also adopted Ordinance No. 026, 2010, amending the City's Land Use Code to clarify the zone districts in which such businesses may operate; and

WHEREAS, the Licensing Ordinance includes certain location criteria for medical marijuana dispensaries, which criteria have been codified in Chapter 15, Article XVI of the Code; and

WHEREAS, the Licensing Ordinance, as amended by Ordinance No. 047, 2010, sets forth, in Sections 3 through 9 thereof, a procedure whereby "existing medical marijuana businesses," as defined therein, must apply for licensing under Chapter 15 of the Code on or before June 30, 2010, in order to continue in operation in the City; and

WHEREAS, the Licensing Ordinance also states, in Section 7 thereof, that existing businesses for which a license is approved by the City shall be subject to all of the provisions of Chapter 15, Article XVI of the Code except the location requirements contained therein and the zone district standards contained in Article 4 of the Land Use Code, until the City Council determines by ordinance, after receiving a recommendation from the City Manager, whether such businesses will be permitted to remain in operation in their current locations; and

WHEREAS, the City Council recognizes the substantial investments made by the owners of such businesses and wishes to allow for the continuing operation of the same in their existing locations; and

WHEREAS, City staff, after considering the current locations of each of the existing medical marijuana businesses in relation to the protected uses set forth in Chapter 15, Article XVI of the Code, has recommended, through the City Manager, that the City Council authorize the ongoing operation of all such businesses; and

WHEREAS, subsequent to the City Council's adoption of the Licensing Ordinance, the state legislature enacted Article 43.3 of Title 12, C.R.S., known as the Colorado Medical Marijuana Code,

concerning the licensing and regulation of medical marijuana businesses, which took effect July 1, 2010; and

WHEREAS, C.R.S. Section 12-43.3-308 establishes certain state-wide location criteria but also authorizes the governing body of a municipality to, by ordinance, vary such restrictions.

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

Section 1. That the foregoing recitals are hereby incorporated herein as findings of the City Council and made a part hereof by this reference.

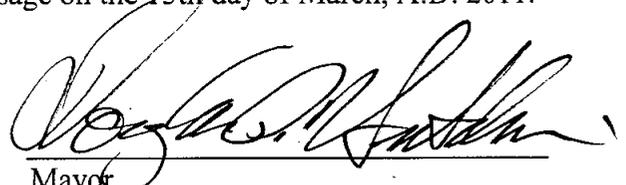
Section 2. That the City Council hereby finds and determines that all “existing medical marijuana businesses,” as defined in Ordinance Nos. 25, 47 and 69, 2010, that submitted applications for licensing to the City Clerk on or before June 30, 2010, and that meet all state and local laws and regulations applicable to such businesses other than the zoning requirements of Article 4 of the Land Use Code and/or the location requirements contained in Chapter 15, Article XVI of the Code, shall be allowed to continue in operation in their current locations or in any such new location that conforms to the foregoing zoning and location requirements.

Section 3. No existing medical marijuana business that is authorized to continue in operation under Section 2 of this Ordinance and that fails to conform to the location requirements contained in Chapter 15, Article XVI of the Code shall add more than twenty-five percent (25%) of new floor area to the buildings or structures that exist on the site of such business as of the effective date of this Ordinance, nor shall any new structures be constructed on such site.

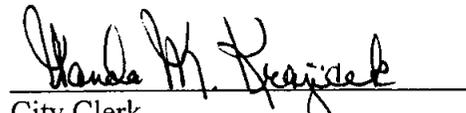
Section 4. If active operations in an existing medical marijuana business that is allowed to continue in operation under Section 2 of this Ordinance are discontinued for a period of twelve (12) consecutive months, the building, other structure or tract of land where such business previously existed shall thereafter be occupied and used only for a use that is permitted in such location under the Land Use Code and under the location requirements contained in Chapter 15, Article XVI of the Code.

Section 5. Any existing medical marijuana business that is authorized to continue in operation under Section 2 of this Ordinance and that is not a permitted use under Article 4 of the Land Use Code in the zone district in which it is currently located, shall be subject to the regulations applicable to non-conforming uses under Section 1.5 of the Land Use Code, as well as the provisions of Section 3 and 4 of this Ordinance. In the event of any conflict between the provisions of said Section 1.5 of the Land Use Code and the provisions of Section 2 or Section 3 of this Ordinance, the more restrictive provision shall apply.

Introduced, considered favorably on first reading, and ordered published this 22nd day of February, A.D. 2011, and to be presented for final passage on the 15th day of March, A.D. 2011.

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk

Passed and adopted on final reading on the 15th day of March, A.D. 2011.

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Mayor

ATTEST:

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City Clerk

ORDINANCE NO. 019, 2011  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
MAKING CERTAIN AMENDMENTS TO CHAPTER 15,  
ARTICLE XVI OF THE CODE OF THE CITY OF FORT COLLINS  
GOVERNING THE LICENSING, NUMBER, LOCATION AND OPERATION  
OF MEDICAL MARIJUANA BUSINESSES, AND ADDING A NEW  
ARTICLE GOVERNING THE CULTIVATION OF  
MEDICAL MARIJUANA BY PRIMARY CAREGIVERS AND PATIENTS

WHEREAS, on March 16, 2010, the City Council adopted on second reading Ordinance No. 025, 2010, adding a new Article XVI to Chapter 15 of the City Code, which Article governs the licensing, location and operation of medical marijuana businesses (the “Local Regulations”); and

WHEREAS, on June 7, 2010, the governor signed House Bill 10-1284 into law enacting Title 12, Article 43.3 of the Colorado Revised Statutes (the “Colorado Medical Marijuana Code”), which regulates the cultivation, manufacture, distribution, and sale of medical marijuana as a matter of state-wide concern; and

WHEREAS, the Colorado Medical Marijuana Code states that on or after July 1, 2011, all businesses engaged in the cultivation, manufacture, or sale of medical marijuana or in the processing of medical marijuana-infused products shall be subject to its terms and conditions and any rules promulgated pursuant thereto; and

WHEREAS, the Colorado Medical Marijuana Code also authorizes counties and municipalities in Colorado to prohibit or regulate medical marijuana businesses and to adopt regulations consistent with the intent of the state law that are more restrictive than the State’s; and

WHEREAS, City staff has extensively reviewed and compared the Local Regulations to the Colorado Medical Marijuana Code and has recommended that the Local Regulations be amended to eliminate provisions that are adequately addressed by the Colorado Medical Marijuana Code, to update or modify certain other provisions, and to add new regulations that staff believes are necessary to better protect the health, safety and welfare of City residents; and

WHEREAS, the City Council has reviewed these staff recommendations and has concluded that the recommended amendments to the Local Regulations are in the best interests of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS that Chapter 15, Article XVI of the Code of the City of Fort Collins is hereby amended to read as follows:

## ARTICLE XVI. MEDICAL MARIJUANA

### DIVISION I. IN GENERAL

#### **Sec. 15-450. Purpose.**

(a) The purpose of this Article is to implement the provisions of Article 43.3 of Title 12, C.R.S., known as the Colorado Medical Marijuana Code, which authorizes the licensing and regulation of medical marijuana businesses, and affords local government the option to determine whether or not to allow certain medical marijuana businesses within their respective jurisdictions, and to adopt licensing requirements that are supplemental to or more restrictive than the requirements set forth in state law.

(b) By adoption of this Article, the City Council does not intend to authorize or make legal any act that is not permitted under federal or state law.

#### **Sec. 15-451. Incorporation of state law.**

The provisions of the Colorado Medical Marijuana Code, and any rules and regulations promulgated thereunder, are incorporated herein by reference except to the extent that more restrictive or additional regulations are set forth in this Article.

#### **Sec. 15-452. Definitions.**

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section:

*Applicant* shall mean any person or entity who has submitted an application for a license or renewal of a license issued pursuant to this Article. If the applicant is an entity and not a natural person, *applicant* shall include all persons who are the members, managers, officers, directors and shareholders of such entity.

*Building Official* shall mean the Building Code Official as defined in Chapter 5 of this Code.

*Colorado Medical Marijuana Code* shall mean Title 12, Article 43.3 of the Colorado Revised Statutes and any rules or regulations promulgated thereunder.

*Cultivation* or *cultivate* shall mean the process by which a person grows a marijuana plant.

*Financial interest* shall mean any ownership interest, including, without limitation, a membership, directorship or officership; or any creditor interest, whether or not such interest is evidenced by any written document.

*License* shall mean a document issued by the City officially authorizing an applicant to operate a medical marijuana business pursuant to this Article.

*Licensee* shall mean the person to whom a license has been issued pursuant to this Article.

*Medical marijuana business* or *business* shall mean a medical marijuana center, optional premises cultivation operation, or medical marijuana-infused products manufacturer as defined in the Colorado Medical Marijuana Code.

*Medical marijuana paraphernalia* or *paraphernalia* shall mean devices, contrivances, instruments and paraphernalia for inhaling or otherwise consuming medical marijuana, including, but not limited to, rolling papers, related tools, water pipes and vaporizers.

*Minor patient* shall mean a patient less than eighteen (18) years of age.

*Patient* shall mean a person who has a debilitating medical condition as defined in Article XVIII, Section 14 of the Colorado Constitution.

*Place of worship or religious assembly* shall mean a building containing a hall, auditorium or other suitable room used for the purpose of conducting religious services or meetings of the occupants of such structure.

*State* shall mean the state of Colorado.

(b) In addition to the definitions contained in Subsection (a) of this Section, other terms used in this Article shall have the meaning ascribed to them in Article XVIII, Section 14 of the Colorado Constitution or the Colorado Medical Marijuana Code, and such definitions are hereby incorporated into this Article by this reference.

**Secs. 15-453–15-460.** Reserved.

## DIVISION 2. MEDICAL MARIJUANA LICENSING AUTHORITY

### **Sec. 15-461. Creation.**

There shall be and is hereby created a Medical Marijuana Licensing Authority, hereafter referred to in this Article as the “Authority”.

### **Sec. 15-462. Composition.**

The Authority shall be a person appointed by the City Manager.

**Sec. 15-463. Functions.**

(a) The Authority shall have the duty and authority pursuant to the Colorado Medical Marijuana Code and this Article to grant or refuse licenses, and levy penalties against licensees in the manner provided by law.

(b) The Authority shall have all the powers of a Local Licensing Authority as set forth in the Colorado Medical Marijuana Code.

(c) The Authority shall have the power to promulgate rules and regulations concerning the procedures for hearings before the Authority.

(d) The Authority shall have the power to require any applicant or licensee to furnish any relevant information required by the Authority.

(e) The Authority shall have the power to administer oaths and issue subpoenas to require the presence of persons and the production of papers, books and records at any hearing which the Authority is authorized to conduct. Any such subpoena shall be served in the same manner as a subpoena issued by the District Court of the State.

**Secs. 15-464–15-469**~~70~~. Reserved.

DIVISION 3. LICENSES, FEES, REGULATIONS AND PROCEDURES

**Sec. 15-470**~~71~~. **License required.**

It shall be unlawful for any person to establish or operate a medical marijuana business in the City without first having obtained from the City and the state a license for each facility to be operated in connection with such business. Such license shall be kept current at all times, and the failure to maintain a current license shall constitute a violation of this Section.

~~**Sec. 15-471. Limit on number of licenses.**~~

~~(a) There shall be no more than twenty-three (23) medical marijuana centers licensed in the City at any one time. If, at any time, fewer than twenty-three (23) centers are licensed, consideration for additional licenses will be given in the order prospective applicants are placed on a wait list to be maintained by the City.~~

~~(b) There shall be no more than one (1) medical marijuana-infused product manufacturer's license per center in the City at any one time.~~

**Sec. 15-472. Requirements of application for license; payment of application fee; denial of license.**

(a) A person seeking a license pursuant to the Colorado Medical Marijuana Code and the provisions of this Article shall submit an application to the City on forms provided by the State and City. At the time of application, each applicant shall pay a nonrefundable application fee to defray the costs incurred by the City for background investigations and inspection of the proposed premises, as well as any other costs associated with the processing of the application. In addition, the applicant shall present for recording one (1) of the following forms of identification:

- (1) an identification card issued in accordance with Section 42-2-302, C.R.S.;
- (2) a valid state driver's license;
- (3) a valid driver's license containing a picture issued by another state;
- (4) a military identification card;
- (5) a valid passport; or
- (6) an alien registration card.

The applicant shall also provide the following information on a form approved by, or acceptable to, the City, which information shall be required for the applicant, the proposed manager of the medical marijuana business, and all persons having a financial interest in the medical marijuana business that is the subject of the application or, if the applicant is an entity, having a financial interest in the entity:

- (1) name, address, date of birth, and other identifying information as may be required;
- (2) an acknowledgment and consent that the City may conduct a background investigation, including a criminal history check, and that the City will be entitled to full and complete disclosure of all financial records of the medical marijuana business, including records of deposit, withdrawals, balances and loans;
- (3) if the applicant is a business entity, information regarding the entity, including, without limitation, the name and address of the entity, its legal status, and proof of registration with, or a certificate of good standing from, the Colorado Secretary of State, as applicable;
- (4) if the applicant is not the owner of the proposed licensed premises, a notarized statement from the owner of such property authorizing the use of the property for a medical marijuana business;

- (5) a copy of any deed reflecting the applicant's ownership of, or lease reflecting the right of the applicant to possess, the proposed licensed premises;
- (6) evidence of a valid City and state sales tax license for the business;
- (7) a "to scale" diagram of the proposed licensed premises, no larger than 11" x 17", showing, without limitation, , building layout, all entry ways and exits to the proposed licensed premises, loading zones and all areas in which medical marijuana will be stored, grown, manufactured or dispensed;
- (8) a "to scale" site plan for the location of the proposed licensed premises, no larger than 11" x 17", showing, without limitation, lot lines and lot line dimensions, building locations on the lot and building footprints, parking stalls, driveway and/or curb cut locations and dimensions, sidewalks, trash enclosures, and loading zones;
- (9) a comprehensive business operation plan for the medical marijuana business which shall contain, at a minimum, the following:
  - a. a security plan meeting the requirements of § 15-479 of this Article,
  - b. a description of all products to be sold,
  - c. a plan for exterior signage that is in compliance with all applicable requirements of this Code and the Land Use Code, including photographs and/or illustrations of proposed signage; and
- (10) any additional information that the City Manager reasonably determines to be necessary in connection with the investigation and review of the application.

(b) A license issued pursuant to this Article does not eliminate the need for the licensee to obtain other required permits or licenses related to the operation of the medical marijuana business, including, without limitation, any development approvals or building permits required by this Code and the Land Use Code.

(c) Upon receipt of a completed application, the City Manager shall circulate the application to all affected service areas and departments of the City to determine whether the application is in full compliance with all applicable laws, rules and regulations.

(d) The City shall, prior to issuance of the license, perform an inspection of the proposed licensed premises, to determine compliance with any applicable requirements of this Article or other provisions of this Code or the Land Use Code.

**Sec. 15-473. Denial of application.**

The Authority shall deny any application that does not meet the requirements of the Colorado Medical Marijuana Code or this Article. The Authority shall also deny any application that contains any false, misleading or incomplete information. Denial of an application for a license shall not be subject to administrative review but only to review by a court of competent jurisdiction.

**Sec. 15-474. Persons prohibited as licensees.**

~~(a)~~ No license shall be issued to, held by, or renewed by any of the following:

- (1) any natural person who has been released within the ten (10) years immediately preceding the application from any form of incarceration or court-ordered supervision, including a deferred sentence, resulting from a conviction of any felony or any crime which under the laws of the State would be a felony; or any crime of which fraud or intent to defraud was an element, whether in the State or elsewhere;
- (2) any entity whose directors, shareholders, partners or other persons having a financial interest in said entity have been convicted of any of the offenses set forth in Paragraph (1) above;
- (3) any applicant who has made a false, misleading or fraudulent statement, or who has omitted pertinent information, on his or her application for a license;
- (4) any applicant whose license for a medical marijuana business in this state or any other state has been revoked;
- (5) any applicant who already holds two (2) medical marijuana center licenses in the City.
- (6) any applicant for an optional premises cultivation operation license unless the applicant is simultaneously applying for, or currently holds, a license for a medical marijuana center or a medical marijuana-infused products manufacturing facility in the City;
- (7) any applicant for a medical marijuana-infused products manufacturer license unless the applicant is also applying for, or currently holds, a license for a medical marijuana center in the City.

**Sec. 15-475. Location criteria.**

- (a) No medical marijuana center shall be issued a license if, at the time of application for such license, the proposed location is:

- (1) within one thousand (1,000) feet of another medical marijuana center.
- (2) within one thousand (1,000) feet of any private or public preschool, elementary, secondary, vocational or trade school;
- (3) within five hundred (500) feet of:
  - a. any college or university,
  - b. any child care center,
  - c. any place of worship or religious assembly,
  - d. any public or private park, pool, playground or recreational facility,
  - e. any juvenile or adult halfway house, correctional facility, or substance abuse rehabilitation or treatment center, or
  - f. the boundary of any R-U-L, U-E, R-F, R-L, L-M-N, M-M-N, N-C-L, N-C-M, N-C-B or H-M-N residential zone district;
- (4) located upon any City property; or
- (5) in a residential unit, except as permitted under Section 3.8.3 of the Land Use Code.

(b) The location criteria contained in subsection (a) of this Section shall apply to all proposed changes in the location of an existing license.

(c) The distances described in subsection (a) above shall be computed by direct measurement in a straight line from the nearest property line of the land used for the purposes stated in Subsections (a)(1), (a)(2) and (a)(3) above to the nearest portion of the building or unit in which the medical marijuana center is located.

**Sec. 15-476. Inspection fee.**

(a) Upon issuance of a license, and upon renewal thereafter, the licensee shall pay to the City a fee in an amount determined by the City Manager to be sufficient to cover the cost of inspections conducted pursuant to § 15-487 of this Article by Police Services, or such other departments of the City as may be designated by the City Manager, for the purpose of determining compliance with the provisions of this Article and any other applicable state or local laws or regulations.

(b) The inspection fee required under Subsection (a) of this Section shall be due and payable prior to or upon issuance of each license and upon the renewal of any such license, and shall not be refundable.

**Sec. 15-477. Signage and advertising.**

All signage and advertising for a medical marijuana center shall comply with all applicable provisions of this Code and the Land Use Code. In addition, no signage

or advertising shall use the word "marijuana" or "cannabis" or any other word, phrase or symbol commonly understood to refer to marijuana unless such word, phrase or symbol is immediately preceded by the word "medical" in type and font that is at least as readily discernible as all other words, phrases or symbols. Such signage and advertising must clearly indicate that the products and services are offered only for medical marijuana patients and primary caregivers.

**Sec. 15-478. Warning signs.**

There shall be posted in a conspicuous location in each medical marijuana center a legible sign containing warnings that:

- (1) the possession, use or distribution of marijuana is a violation of federal law;
- (2) the possession, use or distribution of marijuana for nonmedical purposes is a violation of state law;
- (3) it is illegal under state law to drive a motor vehicle or to operate machinery when under the influence of, or impaired by, marijuana; and
- (4) no one under the age of eighteen (18) years is permitted on the premises except minor patients accompanied by a parent or legal guardian in possession of a state registry card for such minor patient.

**Sec. 15-479. Security requirements.**

Security measures at all licensed premises shall comply with the requirements of the Colorado Medical Marijuana Code and all applicable rules and regulations promulgated thereunder, and shall include at a minimum the following:

- (1) security surveillance cameras installed and properly maintained to monitor all entrances, along with the interior and exterior of the premises, to discourage and facilitate the reporting of criminal acts and nuisance activities occurring at the premises;
- (2) robbery and burglary alarm systems which are professionally monitored and maintained in good working condition;
- (3) a locking safe permanently affixed to the premises that is suitable for storage of all medical marijuana and cash stored overnight on the licensed premises;
- (4) exterior lighting that illuminates the exterior walls of the licensed premises and complies with applicable provisions of this Code and the Land Use Code; and

- (5) locking systems for exterior doors that are designed and installed in such fashion as to deter unlawful entry and provide safe emergency egress.

**Sec. 15-480. Report of disturbances and unlawful activity.**

(a) All licensees and any agent, manager or employee thereof, shall immediately report to Police Services any disorderly act, conduct or disturbance and any unlawful activity committed in or on the licensed premises, including, but not limited to, any unlawful resale of medical marijuana, and shall also immediately report any such activity in the immediate vicinity of the business.

(b) Each licensee shall post and keep at all times visible to the public in a conspicuous place on the premises, a sign with a minimum height of fourteen (14) inches and a minimum width of eleven (11) inches with each letter to be a minimum of one-half (1/2) inch in height, which shall read as follows:

"WARNING: Fort Collins Police Services must be notified of all disorderly acts, conduct or disturbances and all unlawful activities which occur on or within the premises of this licensed establishment."

(c) It shall not be a defense to a prosecution of a licensee under this Section that the licensee was not personally present on the premises at the time such unlawful activity, disorderly act, conduct or disturbance was committed; however, no agent, servant or employee of the licensee shall be personally responsible for failing to report any disorderly act, conduct or disturbance and any unlawful activity hereunder if such agent, servant or employee was absent from the premises at the time such activity was committed.

(d) Failure to comply with the requirements of this Section shall be considered by the Authority in any action relating to the issuance, revocation, suspension or nonrenewal of a license.

**Sec. 15-481. Cultivation, growing, processing and sale of plants by licensees.**

(a) No marijuana plant, clone or seedling kept or sold at a medical marijuana center shall exceed eight (8) inches in height as measured from the top of the growing medium to the tip of the cutting.

(b) The cultivation, growing, processing, display or storage of marijuana plants by an optional premises cultivation operation licensee shall be conducted only at the licensed premises.

**Sec. 15-482. Labeling.**

All medical marijuana sold or otherwise distributed by the licensee shall be labeled in a manner that advises the purchaser that the marijuana is intended for use solely by the patient to whom it is sold and that any resale or redistribution of the marijuana to any person other than a patient or primary caregiver is a criminal violation.

**Sec. 15-483. Prohibited acts.**

(a) It shall be unlawful for any licensee to permit the consumption of alcohol beverages, as defined in the Colorado Liquor Code, on the licensed premises.

(b) It shall be unlawful for any licensee holding a medical marijuana center license, or for any agent, manager or employee thereof, to:

- (1) sell, give, dispense or otherwise distribute medical marijuana or medical marijuana paraphernalia from any outdoor location;
- (2) 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 (excluding medical marijuana-infused products) within any seven-day period of time;
- (3) sell, give, dispense or otherwise distribute to another licensed center more than eight (8) ounces of medical marijuana in any usable form within any seven-day period of time;
- ~~(4) purchase or otherwise obtain from any licensed center more than eight (8) ounces of medical marijuana in any usable form within any seven-day period of time;~~
- (5) 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 Article XVIII, Section 14(3)(d) of the Colorado Constitution,
  - 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 Article XVIII, Section 14(3)(d) of the Colorado Constitution 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, or
- 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.

(c) It shall be unlawful for any optional premises cultivation operation to:

- (1) post or allow to be posted signs or other advertising materials identifying the premises as being associated with the cultivation or use of medical marijuana;
- (2) operate in the City, unless it operates as an optional premise to a medical marijuana center or a medical marijuana-infused products manufacturer located in the City that is under the same ownership as the optional premises cultivation operation; or
- (3) sell, give, dispense or otherwise distribute medical marijuana except to a medical marijuana center or medical marijuana-infused products manufacturer located in the City that is under the same ownership as the optional premises cultivation operation.

(d) It shall be unlawful for any medical marijuana-infused products manufacturer to:

- (1) post or allow to be posted signs or other advertising materials identifying the premises as being associated with the production or use of medical marijuana;
- (2) operate in the City unless it also holds a medical marijuana center license in the City; or
- (3) operate more than one (1) medical marijuana-infused products manufacturing facility in the City; or
- (34) sell, give, dispense, or otherwise distribute any of the products it manufactures except to a medical marijuana center located in the City that is under the same ownership as the medical marijuana infused-product manufacturer.

**Sec. 15-484. Visibility of activities; control of emissions.**

(a) All activities of medical marijuana businesses, including, without limitation, cultivating, growing, processing, displaying, manufacturing, selling and storage, shall be conducted indoors.

(b) No medical marijuana or paraphernalia shall be displayed or kept in a business so as to be visible from outside the licensed premises.

(c) Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting a medical marijuana business must be provided at all times. In the event that any odors, debris, dust, fluids or other substances exit a medical marijuana business, the owner of the subject premises and the licensee shall be jointly and severally liable for such conditions and shall be responsible for immediate, full clean-up and correction of such condition. The licensee shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations.

**Sec. 15-485. Sales tax.**

Each medical marijuana business shall collect and remit City sales and use tax on all medical marijuana, paraphernalia and other tangible personal property used or sold at the licensed premises.

**Sec. 15-486. Required books and records.**

(a) In addition to any requirements under the Colorado Medical Marijuana Code, and any rules or regulations promulgated thereunder requiring licensees to maintain books and records, every medical marijuana center shall maintain an accurate and complete record of all medical marijuana purchased, sold or dispensed by the center in any usable form. Such record shall include the following:

- (1) the identity of the seller and purchaser involved in each transaction;
- (2) the total quantity of, and amount paid for, the medical marijuana; and
- (3) the date, time and location of each transaction.

(b) Every patient or primary caregiver shall provide to the licensee, and the licensee shall record, the following information for such books and records:

- (1) the patient or primary caregiver's name, date of birth, and current street address, including city, state and zip code;
- (2) the form of identification that was presented by the patient or primary caregiver, which may include any of the following, and the identifying number, if any, from such form:

- a. an identification card issued in accordance with Section 42-2-302, C.R.S.,
  - b. a valid state driver's license,
  - c. a valid driver's license containing a picture issued by another state,
  - d. a military identification card,
  - e. a valid passport, or
  - f. an alien registration card;
- (3) a registry identification card or its functional equivalent under Section 14(3)(d) of Article XVIII, Section 14 of the Colorado Constitution and, in the case of a primary caregiver, the date the primary caregiver was designated by the patient for whom the medical marijuana was purchased.
- (c) Information provided to the licensee by a patient or primary caregiver under the provisions of this Section need not include any information regarding the patient's physician or medical condition.
- (d) All transactions shall be kept in a numerical register in the order in which they occur.
- (e) All records required to be kept under this Article must be kept in the English language in a legible manner and must be preserved and made available for inspection for a period of three (3) years after the date of the transaction. Information inspected by Police Services or other City departments pursuant to this Article shall be used for regulatory and law enforcement purposes only and shall not be a matter of public record.

**Sec. 15-487. Inspection of licensed premises.**

(a) During all business hours and other times of apparent activity, all licensed premises shall be subject to inspection by Police Services and all other City departments designated by the City Manager for the purpose of investigating and determining compliance with the provisions of this Article and any other applicable state and local laws or regulations. Said inspection may include, but need not be limited to, the inspection of books, records and inventory. Where any part of the licensed premises consists of a locked area, such area shall be made available for inspection, without delay, upon request.

**Sec. 15-488. Nonrenewal, suspension or revocation of license.**

- (a) The Authority may, after notice and hearing, **suspend, revoke** or refuse to renew a license for any of the following reasons:
- (1) the applicant or licensee, or his or her agent, manager or employee, have violated, do not meet, or have failed to comply with, any of the terms, requirements, conditions or provisions of this Article or with any applicable state or local law or regulation;

- (2) the applicant or licensee, or his or her agent, manager or employee, have failed to comply with any special terms or conditions of its license pursuant to an order of the state or local licensing authority, including those terms and conditions that were established at the time of issuance of the license and those imposed as a result of any disciplinary proceedings held subsequent to the date of issuance of the license; or
- (3) the medical marijuana business has been operated in a manner that adversely affects the public health, safety or welfare.

(b) Evidence to support a finding under Subsection (a) of this Section may include, without limitation, a continuing pattern of disorderly conduct, a continuing pattern of drug-related criminal conduct within the premises of the medical marijuana business or in the immediate area surrounding such business, a continuing pattern of criminal conduct directly related to or arising from the operation of the medical marijuana business, or an ongoing nuisance condition emanating from or caused by the medical marijuana business.

**Sec. 15-489. Violations and penalties.**

In addition to the possible denial, suspension, revocation or nonrenewal of a license under the provisions of this Article, any person, including, but not limited to, any licensee, manager or employee of a medical marijuana business, or any customer of such business, who violates any of the provisions of this Article, shall be guilty of a misdemeanor punishable in accordance with § 1-15 of this Code.

**Sec. 15-490. No City liability; indemnification.**

(a) By accepting a license issued pursuant to this Article, the licensee waives and releases the City, its officers, elected officials, employees, attorneys and agents from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of business owners, operators, employees, clients or customers for a violation of state or federal laws, rules or regulations.

(b) By accepting a license issued pursuant to this Article, all licensees, jointly and severally if more than one (1), agree to indemnify, defend and hold harmless the City, its officers, elected officials, employees, attorneys, agents, insurers and self-insurance pool against all liability, claims and demands on account of any injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever arising out of or in any manner connected with the operation of the medical marijuana business that is the subject of the license.

**Sec. 15-491. Other laws remain applicable.**

(a) To the extent the State adopts in the future any additional or stricter law or regulation governing the sale or distribution of medical marijuana, the additional or

stricter regulation shall control the establishment or operation of any medical marijuana business in the City. Compliance with any applicable state law or regulation shall be deemed an additional requirement for issuance or denial of any license under this Article, and noncompliance with any applicable state law or regulation shall be grounds for revocation or suspension of any license issued hereunder.

(b) Any licensee may be required to demonstrate, upon demand by the City Manager or by law enforcement officers, that the source and quantity of any marijuana found upon the licensed premises are in full compliance with any applicable state law or regulation.

(c) If the State prohibits the sale or other distribution of marijuana through medical marijuana dispensaries, any license issued hereunder shall be deemed immediately revoked by operation of law, with no ground for appeal or other redress on behalf of the licensee.

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

**Sec. 15-492. Severability.**

If any section, sentence, clause, phrase, word or other provision of this Article is for any reason held to be unconstitutional or otherwise invalid, such holding shall not affect the validity of the remaining sections, sentences, clauses, phrases, words or other provisions of this Article or the validity of this Article as an entirety, it being the legislative intent that this Article shall stand, notwithstanding the invalidity of any section, sentence, clause, phrase, word or other provision.

**Sec. 15-493. Administrative regulations.**

The City Manager is authorized to promulgate such rules and regulations as are necessary to effectuate the implementation, administration and enforcement of this Article.

**Secs. 15-494–15-499.** Reserved.

ARTICLE XVII. MEDICAL MARIJUANA PATIENTS AND  
PRIMARY CAREGIVERS

**Sec. 15-500. Definitions.**

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section:

*Patient* shall mean a person who has a debilitating medical condition as defined in Article XVIII, Section 14 of the Colorado Constitution.

*Primary caregiver* shall mean a person, other than the patient and the patient's physician, who is eighteen (18) years of age or older and has significant responsibility for managing the well-being of a patient who has a debilitating medical condition.

**Sec. 15-501. Limitations.**

Primary caregivers who cultivate, possess or dispense medical marijuana for use by patients, and patients who cultivate or possess medical marijuana for their own medical use, shall be subject to the following limitations:

- (1) All cultivation of medical marijuana shall be conducted entirely within a building or other fully enclosed structure.
- (2) No medical marijuana may be cultivated within any duplex or multi-family dwelling, or within any structure that is located on the same legal parcel as a duplex or multi-family dwelling.
- (3) Not more than twelve (12) marijuana plants, including no more than six (6) mature plants, may be cultivated or kept within, or on the same legal parcel as, any single- family dwelling.
- (4) 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 Article XVIII, Section 14 of the Colorado Constitution.

Introduced, considered favorably on first reading, and ordered published this 22nd day of February, A.D. 2011, and to be presented for final passage on the 15th day of March, A.D. 2011.

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Mayor

ATTEST:

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City Clerk

Passed and adopted on final reading on the 15th day of March, A.D. 2011.

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Mayor

ATTEST:

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City Clerk

ORDINANCE NO. 020, 2011  
 OF THE COUNCIL OF THE CITY OF FORT COLLINS  
 AMENDING THE CITY'S LAND USE CODE BY ADDING MEDICAL  
 MARIJUANA-INFUSED PRODUCT FACILITIES AS PERMITTED USES IN  
 VARIOUS ZONE DISTRICTS, AND RENAMING DISPENSARIES AND  
 CULTIVATION FACILITIES

WHEREAS, the City Council, by Ordinance No. 026, 2010 and Ordinance No. 045, 2010, amended the Land Use Code to accommodate the establishment of medical marijuana uses in the City; and

WHEREAS, subsequent to the adoption of these ordinances, the state law that regulates medical marijuana businesses (the "Medical Marijuana Code") has been amended to provide definitions and names for various medical marijuana related establishments that are slightly different than those used in the Land Use Code; and

WHEREAS, the Medical Marijuana Code also allows for, and regulates, medical marijuana-infused product manufacturers, which the City Code does not; and

WHEREAS, City staff has recommended certain amendments to the City Code to accommodate medical marijuana-infused product manufacturers and the City Council has approved such amendments; and

WHEREAS, the purpose of this Ordinance is to bring the relevant provisions of the Land Use Code into conformity with the Medical Marijuana Code.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS that the Land Use Code is hereby amended as follows:

Section 1. That Section 4.16(B)(2)C of the Land Use Code is hereby amended to read as follows:

<i>Land Use</i>	<i>Old City Center</i>	<i>Canyon Avenue</i>	<i>Civic Center</i>
<b>C. COMMERCIAL/RETAIL (Cont'd)</b>			
...	...	...	...
Medical marijuana center	BDR	BDR	BDR
...	...	...	...

Section 2. That Section 4.17(B)(1)(f) of the Land Use Code is hereby amended to read as follows:

(f) **Commercial/Retail Uses:**

1. Medical marijuana center.

Section 3. That Section 4.17(B)(1)(g) of the Land Use Code is hereby amended to read as follows:

**(g) Industrial Uses:**

1. Medical marijuana optional premises cultivation operation.
2. Medical marijuana-infused product manufacturer.

Section 4. That Section 4.18(B)(1)(f) of the Land Use Code is hereby amended to read as follows:

**(f) Commercial/Retail Uses:**

1. Medical marijuana center.

Section 5. That Section 4.19(B)(1)(f) of the Land Use Code is hereby amended to read as follows:

**(f) Commercial/Retail Uses:**

1. Medical marijuana center.

Section 6. That Section 4.19(B)(1)(g) of the Land Use Code is hereby amended to read as follows:

**(g) Industrial Uses:**

1. Medical marijuana optional premises cultivation operation.
2. Medical marijuana-infused product manufacturer.

Section 7. That Section 4.20(B)(1)(f) of the Land Use Code is hereby amended to read as follow:

**(f) Commercial/Retail Uses:**

1. Medical marijuana center.

Section 8. That Section 4.21(B)(1)(f) of the Land Use Code is hereby amended to read as follows:

**(f) Commercial/Retail Uses:**

1. Medical marijuana center.

Section 9. That Section 4.22(B)(1)(f) of the Land Use Code is hereby amended to read as follows:

(f) **Commercial/Retail Uses:**

1. Medical marijuana center.

Section 10. That Section 4.22(B)(1)(g) of the Land Use Code is hereby amended to read as follows:

(g) **Industrial Uses:**

1. Medical marijuana optional premises cultivation operation.
2. Medical marijuana-infused product manufacturer.

Section 11. That Section 4.24(B)(2)D of the Land Use Code is hereby amended to read as follows:

<b>D. INDUSTRIAL</b>	<i>Riverside Area</i>	<i>All Other Areas</i>
...	...	...
Medical marijuana optional premises cultivation operation	Not Permitted	BDR
Medical marijuana-infused product manufacturer	Not Permitted	BDR

Section 12. That Section 4.28(B)(1)(f) of the Land Use Code is hereby amended to read as follows:

(f) **Industrial Uses:**

1. Medical marijuana optional premises cultivation operation.
2. Medical marijuana-infused product manufacturer.

Section 13. That the following definitions contained in Section 5.1.2 of the Land Use Code are hereby amended to read as follows:

*Medical marijuana center* shall mean a person licensed pursuant to Title 12, Article 43.3 of the Colorado Revised Statutes to operate a business as directed in Section 12-43 -402 C.R.S. that sells medical marijuana to registered patients or primary caregivers as defined in Section 14 of Article XVIII of the state constitution, but is not a primary caregiver.

*Medical marijuana optional premises cultivation operation* shall mean a person licensed pursuant to Title 12, Article 43.3 of the Colorado Revised Statutes to operate a business as described in Section 12-43.3-404, C.R.S.

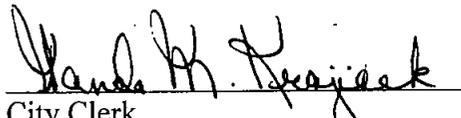
Section 14. That Section 5.1.2 of the Land Use Code is hereby amended by the addition of a new definition "*Medical marijuana-infused products manufacturer*" which reads in its entirety as follows:

*Medical marijuana-infused products manufacturer* shall mean a person licensed pursuant to Title 12 Article 43.3 of the Colorado Revised Statutes to operate a business as described in Section 12-43.3-403 C.R.S.

Introduced, considered favorably on first reading, and ordered published this 22nd day of February, A.D. 2011, and to be presented for final passage on the 15th day of March, A.D. 2011.

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk

Passed and adopted on final reading on the 15th day of March, A.D. 2011.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk