

ORDINANCE NO. 1894

INTRODUCED BY: BULLOCK, BENSON, CARSON, DOUGLAS, ELLIOTT, MCELLOWNEY, MORENO, TETER

AN ORDINANCE AMENDING CHAPTER 8 OF THE COMMERCE CITY REVISED MUNICIPAL CODE TO PROVIDE FOR THE LICENSING AND REGULATION OF MEDICAL MARIJUANA BUSINESSES

WHEREAS, in 2010, the state legislature enacted the Colorado Medical Marijuana Code which created a dual-licensing scheme for medical marijuana centers, medical marijuana-infused products manufacturers, and optional premise cultivation operations; and

WHEREAS, the Colorado Medical Marijuana Code authorizes municipalities to regulate medical marijuana businesses and to adopt regulations consistent with the intent of state law that are more restrictive than state law; and

WHEREAS, the City Council for the City of Commerce City has determined that the regulations contained in the amended Chapter 8 of the Commerce City Revised Municipal Code are necessary to protect the health, safety, and welfare of City residents.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COMMERCE CITY, COLORADO AS FOLLOWS:

SECTION 1. Chapter 8 of the Commerce City Revised Municipal Code shall be amended to read as follows:

CHAPTER 8. ALCOHOLIC BEVERAGES
& MEDICAL MARIJUANA

ARTICLE I. ALCOHOLIC BEVERAGES.

DIVISION 1. GENERAL PROVISIONS

Sec. 8-1100. Purpose, Intent and Conflicts.

This article is enacted for the purpose of promoting the health, safety and welfare of the present and future inhabitants of the city by regulating, controlling and licensing the sale of alcohol beverages, and the conduct of establishments which are licensed to sell alcohol beverages, in conjunction with the state liquor laws. If any of the ordinances contained in this article conflict with the state liquor laws, the provisions of the state liquor laws shall govern. If the provisions of the state liquor laws are silent on a matter contained in this article, the provisions of this article shall govern.

Sec. 8-1101. Scope.

The provisions of this article shall apply to all persons who sell alcohol beverages at retail within the city.

Sec. 8-1102. Definitions.

The words and phrases used in this article shall have the meanings as set forth in Articles 46, 47 and 48 of Title 12, Colorado Revised Statutes, as amended, and the case law interpreting the same. Any words or phrases not ascribed a meaning in such manner shall have their common, ordinary and accepted meanings, except that the following terms shall have the meanings ascribed to them in this section:

Administrative application means the application on forms approved by the city or the state for any of the following:

- (1) Temporary permit;
- (2) Change of corporate structure;
- (3) Modification of premises;
- (4) Manager registration;
- (5) Special events permit;
- (6) Transfer of ownership;
- (7) Change of corporate or trade name;
- (8) Bed and breakfast permit;
- (9) Tasting permit;
- (10) Renewal; and
- (11) Any other license-related application for which a public hearing is not required by state liquor laws.

Applicant means a person applying for, or who has applied for, a license or permit under this article.

- (1) If an individual, the person making an application.
- (2) If a partnership, all the partners of the partnership.

- (3) If a corporation, the corporation and each and every officer, director, manager or stockholder holding ten percent or more of the stock therein.
- (4) If any other legal entity, the entity and each and every officer, director, manager or owner who holds more than a ten percent ownership interest in the entity.

Authority or liquor authority means the local licensing authority for the city.

City clerk means the city clerk of the city or his or her designee.

Gambling device means any device, machine, paraphernalia, or equipment that is used or usable in the playing phases of any gambling activity, whether that activity consists of gambling between persons or gambling by a person involving the playing of a machine.

Licensee means an applicant who has been issued a license or permit pursuant to this article.

Manager means the person or those persons who manage, direct, supervise, oversee and administer the acts, transactions and acts of servants of the establishments governed by this article.

State liquor laws means Articles 46, 47 and 48 of Title 12, C.R.S. and the rules and regulations adopted thereunder by the state licensing authority and the department of revenue, effective January 1, 2006, with all subsequent revisions, amendments or supplements thereto.

Sec. 8-1103. License Required.

No person shall sell or offer to sell any alcohol beverages at retail within the city unless all required state and local licenses are in full force and effect.

Sec. 8-1104. Compliance with Zoning Laws.

No retail liquor store, tavern, club, or beer and wine license shall be issued unless the applicant establishes that the premise complies with the location restrictions contained in the land development code applicable to such establishments.

Sec. 8-1105. Penalties and Other Enforcement Mechanisms.

Any person convicted of violating any provision of this article shall be guilty of a misdemeanor and shall be subject to the general penalties set forth in this code. In addition to such penalties, any licensee who violates, or any licensee whose employees or agents violate, any of the terms of this article or the state liquor laws shall be subject to suspension, revocation or denial of his or her license, the imposition of a fine in lieu of suspension, written reprimand or such other penalty as the authority deems appropriate. A conviction shall be grounds for, but shall not be required prior to, the authority taking action against the license.

Sec. 8-1106. Hearing Decision and Appeal.

The authority shall render a decision within thirty (30) days from the conclusion of the public hearing or not later than the next regular meeting of the authority, whichever time period is longer. All decisions of the authority are final, subject only to appeal pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure.

Sec. 8-1107. Recovery Right of the City.

The city shall have the right to recover all sums due by the terms of this article by judgment and execution thereon in a civil action in any court of competent jurisdiction. Such remedy shall be cumulative with all other remedies provided in this code for the enforcement of this article.

DIVISION 2. ADMINISTRATION.

Sec. 8-1200. Liquor Authority Secretary.

The city clerk shall serve as the official secretary of the liquor authority and in such capacity shall:

- (1) Provide the necessary secretarial and reporting services for the authority;
- (2) Provide all public notices required by this article or the state liquor laws except where the law or ordinance contains a specific provision to the contrary; and
- (3) Issue all licenses granted by the authority upon receipt of such fees as are required by the state liquor laws and this article and after compliance with all legal prerequisites for the issuance of same.

Sec. 8-1201. Applications Filed with the City Clerk.

All liquor license applications shall be filed with the city clerk, who shall review the applications and insure that they are complete before taking action on the application.

Sec. 8-1202. Initial Liquor License.

- (1) Content of application. The application shall be submitted on forms approved by the city clerk and shall include complete plans and specifications for the interior of the premises to be licensed, evidence establishing the applicant's right to possess such premises during the term of the liquor license, all required fees and such additional materials as the city clerk deems necessary or appropriate to carry out the provisions of the state liquor laws and this article.
- (2) Incomplete applications. No application shall be considered which is not complete in every detail. Incomplete applications may be returned to the applicant for completion or

correction without any further action. Neither the city nor the liquor authority shall be responsible for the failure of a license to be issued or renewed prior to an expiration date because of a late, incomplete or defective application.

- (3) Neighborhood boundaries. The city clerk shall set the boundaries of the relevant neighborhood, taking into account boundaries previously established for alcohol beverage licenses in the area. The city clerk shall notify the applicant of such boundaries, and those boundaries shall be deemed accepted unless a written objection is filed by the applicant within five (5) days of receiving notice. If an objection is filed by the applicant, the city clerk shall set the matter for a public hearing before the authority at the next regularly scheduled meeting. At the conclusion of the hearing, during which any party-in-interest shall have the right to be heard, the authority shall establish the boundaries of the relevant neighborhood by either approving or modifying the boundaries set by the city clerk.
- (4) Liquor license hearing and notice. The city clerk shall schedule the liquor license application for hearing before the liquor authority not less than thirty (30) days from the date the neighborhood boundaries are set and shall cause notice of such hearing to be posted and published in accordance with the state liquor laws.

Sec. 8-1203. Optional Premises License.

- (1) Authorization. The liquor authority shall have the power to issue an optional premises license and an optional premises designation for hotel and restaurant licenses in accordance with this article and the state liquor laws. The provisions of this section shall be considered in addition to all other standards or requirements applicable to the issuance of a license pursuant to this article.
- (2) Eligible facilities. An optional premises license may only be granted when the premises to be licensed is located on or adjacent to an outdoor sports and recreational facility as that term is defined by the state liquor laws.
- (3) Content of application. Applications for optional premises licenses shall be submitted on forms approved by the city clerk and shall include the following information in addition to the information required by section 8-2002 and any other information required by this article or the state liquor laws:
 - (a) A detailed diagram of the outdoor sports and recreation facility illustrating the boundaries of such facility and the location of each optional premises requested;
 - (b) A description of the method which shall be used to identify the boundaries of the optional premises when in use and how the applicant will ensure that alcohol beverages are not removed from such premises;
 - (c) A description of how ingress to and egress from the optional premises will be controlled;

- (d) A description of the provisions which have been made for storing alcoholic beverages in a secured area, on or off the optional premises, for the future use of the optional premises;
 - (e) If the applicant does not own the proposed optional premises, written authorization from the owner(s) of record consenting to the application for the optional premises license; and
 - (f) Such other information as may be required to satisfy the authority that control of the optional premises will be assured and that the health, safety and welfare of the neighborhood and users of the outdoor sports and recreational facility will not be adversely affected by the issuance of the optional premises license.
- (4) Processing of application. An application for a new optional premises license or an optional premises for a new hotel and restaurant license shall be processed in the same manner as any other new license application. An application to add an optional premises to an existing hotel and restaurant license shall be processed in the same manner as an application to modify or expand the licensed premises.
 - (5) Size of facility. There shall be no minimum size requirement for the outdoor sports and recreational facilities which may be eligible for an optional premises license. However, the authority may consider the size of a particular outdoor sports and recreational facility in relation to the number of optional premises requested for the facility.
 - (6) Number of licenses. There shall be no restrictions on the number of optional premises which any one licensee may have on an outdoor sports and recreational facility. However any applicant requesting approval of more than one (1) optional premises on an outdoor sports and recreational facility shall demonstrate the reason for each optional premises in relationship to the outdoor sports and recreational facility and its guests.
 - (7) Advance notification. No alcoholic beverages may be served on the optional premises unless the licensee has provided written notice to the state and local licensing authorities forty-eight (48) hours in advance stating the specific days and hours on which the optional premises are to be used. There shall be no limitation on the number of days which a licensee may specify in each notice. However, no notice may specify any date of use which is beyond the current license period.

Sec. 8-1204. Liquor Tasting Permit.

- (1) Permit required. Alcohol beverages tastings shall be permitted within the city only following approval of an application for a tasting permit and subject to the limitations set forth in this article and the state liquor laws.

- (2) Term. Permits issued during the term of a current license shall be valid for the period of the then-existing liquor license. All other tasting permits shall be issued concurrent with the retail liquor store license and shall be valid for the term of said license.
- (3) Advance notification. No tasting may be conducted unless the licensee has provided written notice to the liquor authority at least forty-eight (48) hours in advance stating the specific days and hours on which the tasting(s) shall occur. There shall be no limitation on the number of days which a licensee may specify in each notice. However, no notice may specify any date which is beyond the current license period.

Sec. 8-1205. Administrative Applications.

- (1) City Clerk. Administrative applications may be decided by the city clerk upon receipt of a completed application and such fees as are required by this article and the state liquor laws.
- (2) Liquor Authority. The city clerk shall refer to the liquor authority for decision all renewal applications when the city clerk has reason to believe that violations of this article or the state liquor laws, not previously reviewed by the authority, may have occurred on the licensed premises during the previous license period. In addition, the city clerk may refer to the liquor authority for decision any administrative application when, as determined by the city clerk, the public interest would be best served by the determination of the matter by the authority.
- (3) Appeals. Administrative applications that are denied by the city clerk may be appealed to the liquor authority. Appeals must be submitted in writing to the city clerk within ten (10) days of the denial and may include a request for hearing. Appeals to the authority will be decided de novo.

DIVISION 3. LICENSE REQUIREMENTS.

Sec. 8-1300. Conduct of Business.

Licensees shall conduct business in a decent, orderly and respectable manner. The following is strictly prohibited from occurring on or in the licensed premises or upon any adjoining grounds or parking area under the control or management of the licensee: the loitering of habitual drunkards or intoxicated persons; lewd or indecent displays; rowdiness or disorderly conduct; undue noise; and any other disturbance or activity offensive to the sensitivities of the average citizen or the residents of the neighborhood in which the establishment is located.

Sec. 8-1301. Compliance with all Laws.

Licensees shall comply with, and conduct their business in compliance with, all federal, state and local laws and regulations.

Sec. 8-1302. Right of Entry.

No person shall refuse entry to, or in any manner interfere with the inspection of the licensed premises by any federal, state or local inspector who is either permitted or required to inspect the licensed premises, if such entry is attempted during business hours or during reasonable hours after business hours when there are employees on the premises to admit the federal, state or local inspector. Entry and inspection shall be permitted not only to areas open to the public but also to all other areas where business is conducted, provided that no employee shall be required to accompany any inspector in any area that the employee deems to be dangerous, if the employee informs the inspector of the perceived danger.

Sec. 8-1303. Display of License.

Any license or permit issued under this article shall be prominently displayed to the public at all times upon the premises for which the license or permit is issued.

Sec. 8-1304. Posting and Display of Notice.

Any notice which is required to be posted under the state liquor laws or this article shall be posted in a conspicuous place on the licensed premises. Licensees and applicants shall assist in the placement of such notice and shall ensure that such notice is displayed prominently and continuously during the notice period.

Sec. 8-1305. Duty to Report.

(1) General Requirements. Except for those situations specifically related to outdoor sports facilities detailed below, a licensee shall:

- (a) Post a sign with a minimum height requirement 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: The Commerce City Police Department must be notified of any unlawful act which occurs in this establishment or on the grounds which are a part of this establishment.”

- (b) Immediately report to the city’s police department any breach of the peace or unlawful or disorderly act, conduct or disturbance (“unlawful conduct”) committed on the premises of the business or upon any parking area or adjoining grounds under the control or management of such licensee.

(2) Outdoor Sports Facilities.

- (a) Definition. “Outdoor sports facility” means any outdoor sports and recreation facility having a seating capacity of 1000 or more persons for which an optional premises license has been granted.

- (b) Parking area. Licensees of outdoor sports facilities shall not be required to report unlawful conduct occurring in the parking area adjacent to the licensed premises.
- (c) Reporting unlawful conduct occurring at events with police presence. Outdoor sports facility licensees shall create written reports of all incidents of unlawful conduct which occur on the licensed premises in conjunction with an event at which commissioned law enforcement personnel have been privately employed for crowd control and/or security. These reports shall be maintained at the licensed premises for a period of two (2) years and made available to the city for inspection upon request. At the end of each month, outdoor sports facility licensees shall submit written summaries of these reports, listing the date, offender's name, and type of offense for each incident, to the city's police department.

Sec. 8-1306. Application and License Fees.

- (1) Application fees. Application fees shall be paid to the city in the amount established by resolution of the city council.
- (2) License fees. Annual state and local license fees shall be paid to the city in the amount specified by the state liquor laws.
- (3) Time of payment. All fees for applications and licenses shall be payable at the time an application or renewal is submitted to the city clerk.
- (4) Payment required. No person shall operate any business for which a license is required under this article unless and until the application and license fees have been paid. No license shall be issued until after the payment of the fees required by this ordinance.
- (5) Refunds. All application fees shall be non-refundable. License fees shall be refunded only if the license is denied. In the event of a suspension or revocation of a license, or termination of business for any reason whatsoever, no portion of the license fee shall be refunded.

Sec. 8-1307. Occupation Fee.

- (1) Occupation established. Considering the nature of the business of selling or offering for sale alcohol beverages and the relation of such business to the municipal welfare as well as the relation thereof to the expenditures required of the city and a proper, just and equitable distribution of the financial burdens within the city, the city finds and declares that the classification of such business as a separate occupation is reasonable, proper, uniform and non-discriminating and necessary for a just and proper distribution of financial burdens within the city. Accordingly, the business of selling at retail any alcohol beverages is hereby defined and separately classified as an occupation as specified below.

- (2) Fee imposed. All persons engaged in the business of selling alcohol beverages within the city shall pay an occupation fee in an amount set by the city council. In setting the fees, the city council is expressly authorized to consider the financial impact that each category of liquor license has upon the city and to set fees according to license classification.
- (3) Payment. The occupation fee shall be in addition to the application and license fees required by this article and shall be due and payable to the city at the time the liquor license is issued and thereafter when the license is renewed.
- (4) Delinquency not grounds for suspension or revocation. No delinquency in the payment of the occupation fees provided for in this article shall constitute grounds for the revocation or suspension of any license granted pursuant to this article. The authority shall exclude from consideration at any hearing the delinquency in the payment of such fees.
- (5) Late payment, interest and penalties. Any portion of the occupation fee not paid when due shall bear interest at the rate of one (1) percent per month until paid. In addition, the city may assess a late charge in the amount of fifteen dollars (\$15.00) or ten (10) percent of the outstanding fee, whichever is greater.
- (6) Refunds. Occupation fees paid in accordance with this article shall be non-refundable.

DIVISION 4. UNLAWFUL CONDUCT.

Sec. 8-1400. Employee Intoxication or Consumption.

It shall be unlawful for any employee, servant or agent of a licensee to consume any alcohol beverage or to be visibly intoxicated while on duty at the licensed premises. It shall be unlawful for a licensee to permit such conduct to occur on the licensed premises.

Sec. 8-1401. Serving Intoxicated Persons.

It shall be unlawful for any person to sell, serve, give away, dispose of, exchange or deliver or permit the sale, serving, giving, disposing, exchanging or delivering of any alcohol beverage to any person who is visibly intoxicated or who is known to be a habitual drunkard.

Sec. 8-1402. Violations Involving Underage Persons.

- (1) Entry. It shall be unlawful for a licensee holding a tavern liquor license, or the agents, servers or employees thereof, to permit a person less than twenty-one (21) years of age to enter or remain in the tavern unless such person is accompanied by a parent or lawful guardian.

- (2) Gambling. It shall be unlawful for any licensee, or the agents, servers or employees thereof, to permit any person less than twenty-one (21) years of age to participate in any game, bet or wager with any cards or gambling device on the licensed premises.

Sec. 8-1403. Solicitation of Drinks.

It shall be unlawful for any licensee, or the agents, servers or employees thereof, to frequent or loiter upon any licensed premises for the purpose of soliciting the purchase or sale of alcohol beverages for the use of the solicitor or any employee or agent of the licensee. It shall be unlawful for the licensee, its agents, servers or employees to allow any person to engage in such conduct on the licensed premises.

Sec. 8-1404. Failure to Cooperate.

It shall be unlawful for any licensee, or any agent, manager or employee thereof, to refuse or fail to cooperate with any police officer who is investigating any allegation of unlawful conduct on the licensed premises.

ARTICLE II. MEDICAL MARIJUANA

DIVISION 1. GENERAL PROVISIONS

Sec. 8-2100. Purpose and intent.

This article is enacted for the purpose of implementing the provisions of C.R.S. tit. 12, art. 43.3, the medical marijuana code, and to regulate the medical marijuana businesses authorized by state law in a manner that best protects the health, safety and welfare of city residents. Nothing in this article is intended to promote or condone the sale, distribution, possession or use of marijuana in violation of any applicable law.

Sec. 8-2101. Scope.

The provisions of this article shall apply to all persons who operate medical marijuana businesses within the city.

Sec. 8-2102. Definitions.

The words and phrases used in this article shall have the meanings as set forth in C.R.S. tit. 12, art. 43.3, as amended. Any words and phrases not ascribed a meaning in such manner shall have their common, ordinary, and accepted meanings except that the following terms shall have the meanings ascribed to them in this section:

Applicant means 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.

Authority or Medical Marijuana Licensing Authority means the local licensing authority for the city.

Cultivation or cultivate means the process by which a person grows a marijuana plant.

License means a document issued by the city officially authorizing an applicant to operate a medical marijuana business 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 medical marijuana code.

Medical Marijuana Code means title 12, article 43.3 of the Colorado Revised Statutes, as amended from time to time, and any rules or regulations promulgated thereunder.

Sec. 8-2103. License Required.

No person shall operate a medical marijuana business within the city unless all required state and local licenses are in full force and effect.

Sec. 8-2104. Compliance with zoning laws.

No application shall be submitted unless the applicant establishes that the city has issued a conditional use permit allowing such use on the applicable property.

Sec. 8-2105. Waiver and indemnification.

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

- (3) No defense to prosecution. The issuance of a license pursuant to this article shall not be deemed to create an exception, defense or immunity for any person in regard to any potential criminal liability the person may have under federal law for the cultivation, possession, sale, distribution or use of marijuana.

Sec. 8-2106. Penalties and other enforcement mechanisms.

Any person convicted of violating any provision of this article shall be guilty of a misdemeanor and shall be subject to the general penalties set forth in this code. In addition to such penalties, any licensee who violates, or any licensee whose employees or agents violate, any of the terms of this article or the medical marijuana code shall be subject to suspension, revocation or denial of his or her license, the imposition of a fine in lieu of suspension, written reprimand or such other penalty as the authority deems appropriate. A conviction shall be grounds for, but shall not be required prior to, the authority taking action against the license.

DIVISION 2. ADMINISTRATION

Sec. 8-2200. Licensing Authority Designation and Authority.

- (1) City Clerk. The city clerk shall act as the local licensing authority for the city and shall have the authority to grant or deny applications in accordance with the provisions of the medical marijuana code and this article.
- (2) Administrative hearing officer. An administrative hearing officer appointed by council shall hear and decide any decision by the city clerk to deny an application, provided the applicant contests such decision in writing within 30 days of the date of the city clerk's decision. In addition, the administrative hearing officer shall have full authority to suspend, fine, restrict, revoke, or deny any license, or impose any penalty authorized by law, if, after notice and hearing, the administrative hearing officer determines by a preponderance of the evidence that a violation of the medical marijuana code or this article occurred. The hearing officer shall have the authority to administer oaths and to issue subpoenas to require the presence of persons or the production of documents, books, and records necessary to the determination of any hearing.

Sec. 8-2201. Appeals.

All decisions of the administrative hearing officer are final, subject only to appeal pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure.

Sec. 8-2202. Applications.

- (1) Form and filing. All applications shall be filed with, and on the forms approved by, the city clerk. The city clerk shall review the applications and insure that they are complete before taking action on the application.

- (2) Content of application. The application shall include complete plans and specifications for the interior of the premises to be licensed, evidence establishing the applicant's right to possess such premises during the term of the license, including without limitation proof that the required conditional use permit has been obtained, all required fees and such additional materials as the city clerk deems necessary or appropriate to carry out the provisions of the medical marijuana code and this article.
- (3) Incomplete applications. No application shall be considered which is not complete in every detail. Incomplete applications may be returned to the applicant for completion or correction without any further action. Neither the city nor the authority shall be responsible for the failure of a license to be issued or renewed prior to an expiration date because of a late, incomplete or defective application.

Sec. 8-2203. Fees.

- (1) Application fees. Application fees shall be paid to the city in the amount established by resolution of the city council.
- (2) License fees. License fees shall be paid to the city in the amount established by resolution of the city council.
- (3) Time of payment. All fees for applications and licenses shall be payable at the time an application or renewal is submitted to the city clerk.
- (4) Payment required. No person shall operate any business for which a license is required under this article unless and until the application and license fees have been paid. No license shall be issued until after the payment of the fees required by this ordinance.
- (5) Refunds. All application fees shall be non-refundable. License fees shall be refunded only if the license is denied. In the event of a suspension or revocation of a license, or termination of business for any reason whatsoever, no portion of the license fee shall be refunded.

DIVISION 3. LICENSE REQUIREMENTS.

Sec. 8-2300. Conduct of Business.

- (1) General requirements. Licensees shall conduct business in a decent, orderly and respectable manner. The following is strictly prohibited from occurring on or in the licensed premises or upon any adjoining grounds or parking area under the control or management of the licensee: the loitering of habitual drunkards or intoxicated persons; lewd or indecent displays; rowdiness or disorderly conduct; undue noise; and any other disturbance or activity offensive to the sensitivities of the average citizen or the residents of the neighborhood in which the establishment is located.

- (2) Alcohol consumption prohibited. The consumption of alcoholic beverages on a licensed premise is strictly prohibited.
- (3) Indoor activities. All medical marijuana dispensing, production, manufacturing and cultivation activities shall be conducted indoors. All product storage shall be indoors. Products, accessories, and associated paraphernalia shall not be visible from a public sidewalk or right of way. All medical marijuana or medical marijuana-infused products ready for sale shall be in a sealed or locked cabinet except when being accessed for distribution.
- (4) Odor control. The cultivation of marijuana is only permitted when the premises are equipped with a system that removes any odors of the marijuana being cultivated so that the odor is not detectable from the exterior of the business or from within any adjoining premises. Approval of the odor removal system by the building inspector is required prior to any cultivation process beginning. The building inspector's determination of the adequacy of any proposed odor-removing system shall be based on his reasonable determination of the ability of the proposed system to remove odors as required by this subsection, which determination shall be based upon the manufacturer's or an engineer's design specifications for the system as they relate to the premises in question.
- (5) Signs and advertising.
 - (a) No sign associated with a medical marijuana dispensary shall use the word "marijuana," "cannabis," or any other word, phrase or symbol commonly understood to refer to marijuana unless such word, phrase or symbol is immediately preceded or followed by the word "medical" or a word or phrase of substantially the same meaning, and unless such preceding or following word or phrase is set forth in a type size that is at least as large as the type size used for the word "marijuana," "cannabis" or other word, phrase or symbol commonly understood to refer to marijuana.
 - (b) Advertisements, signs, displays or other promotional material depicting medical marijuana uses shall not be shown or exhibited off the premises or in any manner which is visible from the roadways, sidewalks, or other public areas.

Sec. 8-2301. Compliance with all Laws.

Licensees shall comply with, and conduct their business in compliance with, the medical marijuana code and this article.

Sec. 8-2302. Right of Entry.

No person shall refuse entry to, or in any manner interfere with the inspection of the licensed premises by any federal, state or local inspector who is either permitted or required to inspect the licensed premises, if such entry is attempted during business hours or during reasonable hours after business hours when there are employees on the premises to admit the federal, state or local

inspector. Entry and inspection shall be permitted not only to areas open to the public but also to all other areas where business is conducted, provided that no employee shall be required to accompany any inspector in any area that the employee deems to be dangerous, if the employee informs the inspector of the perceived danger.

Sec. 8-2303. Display of License.

Any license or permit issued under this article shall be prominently displayed to the public at all times upon the premises for which the license or permit is issued.

Sec. 8-2304. Posting and Display of Notice.

Any notice which is required to be posted under the medical marijuana code or this article shall be posted in a conspicuous place on the licensed premises. Licensees and applicants shall assist in the placement of such notice and shall ensure that such notice is displayed prominently and continuously during the notice period.

DIVISION 4. UNLAWFUL CONDUCT.

Sec. 8-2400. Acquisition and Consumption.

It is unlawful for any person to buy, sell, transfer, give away or acquire medical marijuana except as allowed by the medical marijuana code and this article. It is unlawful for any person to consume medical marijuana in a medical marijuana business, or for a licensee to allow such consumption on the licensed premises.

Sec. 8-2401. Registry Identification Card Misuse.

It is unlawful for any person to use the registry identification card of another. It is unlawful for any person to knowingly allow, or fail to prevent, the use of his or her registry identification card by any other person.

Sec. 8-2402. Failure to Cooperate.

It shall be unlawful for any licensee, or any agent, manager or employee thereof, to refuse or fail to cooperate with any police officer who is investigating any allegation of unlawful conduct on the licensed premises.

SECTION 2. This ordinance shall take effect on July 1, 2012.

INTRODUCED, PASSED ON FIRST READING AND PUBLIC NOTICE ORDERED
THIS _____ DAY OF _____, 2012.

PASSED ON SECOND AND FINAL READING AND PUBLIC NOTICE ORDERED
THIS _____ DAY OF _____, 2012.

CITY OF COMMERCE CITY, COLORADO

Sean Ford, Mayor

ATTEST:

Laura J. Bauer, CMC, City Clerk