

AN INITIATED ORDINANCE TO PROHIBIT THE OPERATION OF
MEDICAL MARIJUANA CENTERS, OPTIONAL PREMISES CULTIVATION
OPERATIONS, AND MEDICAL MARIJUANA-INFUSED PRODUCT
MANUFACTURING WITHIN THE CITY OF FORT COLLINS CORPORATE LIMITS.

WHEREAS, on November 7, 2000, the voters of the state of Colorado approved Amendment 20, which added § 14 to Article XVIII of the Colorado Constitution and created a limited exception from criminal liability under Colorado law (as opposed to Federal law) for seriously ill persons who are in need of marijuana for specified purposes and who obtain and use medicinal marijuana under the limited, specified circumstances described in Amendment 20; and

WHEREAS, Amendment 20 contains specific definitions for the terms “Patient”, “Physician” and “Primary Care-giver” and confers specific protections upon and exemptions from criminal prosecution to persons who meet the requirements of each such defined term provided that all the provisions of Amendment 20 are complied with; and

WHEREAS the citizens of the City of Fort Collins recognize the protection for the medical use of marijuana by persons diagnosed with debilitating medical conditions afforded by Article XVIII, Section 14 of the Colorado Constitution, and desire to affirm the ability of such patients and their primary caregivers to otherwise be afforded the protections of Article XVIII, Section 14 of the Colorado Constitution and C.R.S. §25-1.5-106, as the same may be amended from time to time; and

WHEREAS, the Colorado Legislature during the 2010 legislative session considered House Bill 10-1284 and adopted legislation which in pertinent part added a new Article 43.3 to Title 12 of the Colorado Revised Statutes, to be known as the Colorado Medical Marijuana Code; and

WHEREAS, the Colorado Medical Marijuana Code clarifies Colorado law regarding the scope and extent of Amendment 20 to the Colorado Constitution (“Article XVIII, Section 14”), and at the same time regulates the retail sale, distribution, cultivation and dispensing of medical marijuana known as a “Medical Marijuana Center,” and further authorizes licensing mechanisms known as an “Optional Premises Cultivation Operation” and a “Medical Marijuana-Infused Products Manufacturers’ License,” and furthermore defines the following:

- A) Medical Marijuana Center. As used within this Code, a Medical Marijuana Center is given the identical meaning as that defined in Colorado Revised Statute § 12-43.3-104(8).
- B) Optional Premises Cultivation Operation. As used within this Code, an Optional Premises Cultivation Operation is given the identical meaning as that defined in Colorado Revised Statute § 12-43.3-104(12).

C) Medical Marijuana-Infused Products Manufacturer. As used within this Code, a Medical Marijuana Infused Products Manufacturer is given the identical meaning as that defined in Colorado Revised Statute § 12-43.3-104(10).

WHEREAS, § 12-43.3-106, C.R.S., provides that the Colorado Medical Marijuana Code shall have statewide effect unless a municipality, county, city, or city and county, by either a majority of the registered electors of the municipality, county, city, or city and county voting at a regular election or special election called in accordance with the "Colorado Municipal Election Code of 1965", Article 10 of Title 31, C.R.S., or the "Uniform Election Code of 1992", Articles 1 to 13 of Title 1, C.R.S., as applicable, or a majority of the members of the governing board for the municipality, county, city, or city and county, vote to prohibit the operation of Medical Marijuana Centers, Optional Premises Cultivation Operations, and Medical Marijuana-Infused Products Manufacturers' Licenses; and

WHEREAS, C.R.S. § 12-43.3-310 of the Colorado Medical Marijuana Code further specifically authorizes a municipality in part "to prohibit the operation of medical marijuana centers, optional premises cultivation operations, and medical marijuana-infused products manufacturers' licenses ... based on local government zoning, health, safety, and public welfare laws for the distribution of medical marijuana that are more restrictive than this article;" and

WHEREAS, there are citizens of the City of Fort Collins, who protest and object to the operation of Medical Marijuana Centers, Optional Premises Cultivation Operations, and Medical Marijuana-Infused Products Manufacturers' Licenses within the City of Fort Collins' Corporate limits; and

WHEREAS, Section 1(9), Article V, of the Constitution of Colorado provide that the initiative powers are reserved to the registered electors of every city, town, and municipality as to all local, special, and municipal legislation of every character in and for their respective municipalities; and

WHEREAS, Article 11, Title 31, of the Colorado Revised Statutes sets forth the procedures for exercising the initiative power reserved for municipal electors; and

WHEREAS, it is the intent and desire of the citizens of the City of Fort Collins that the City Council of the City of Fort Collins, Colorado, adopt this Initiated Ordinance in the form presented herein to prohibit the operation of Medical Marijuana Centers, Optional Premises Cultivation Operations, and Medical Marijuana-Infused Product Manufacturing within the City of Fort Collins Corporate Limits or, if the within Initiated Ordinance is not adopted by the City Council in the form presented herein, that the within Initiated Ordinance be referred in the form presented herein to the registered electors of the municipality at a regular or special election to be scheduled as provided by law.

If any provision or provisions of this initiated ordinance shall be held to be invalid, illegal, unenforceable or in conflict with the law, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

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

Section 1. Pursuant to Article 43.3 of Title 12 of the Colorado Revised Statutes, the City of Fort Collins hereby prohibits the operation of Medical Marijuana Centers, Optional Premises Cultivation Operations and Medical Marijuana Infused Products Manufacturing, effective ten (10) days following publication of the within Ordinance as provided in Section 4.9 (B) of the Home Rule Charter of the City of Fort Collins. With respect to any such Centers, Operations, facilities or businesses of any kind in operation upon such effective date, each and every such Center, Operation, facility and business shall cease operations within ninety (90) days of said date.

Section 2. Should the City Council refer this Initiated Ordinance to the registered electors of the City at a regular or special municipal election, this Initiated Ordinance shall take effect immediately upon certification by the designated election official that a majority of registered electors voted in favor of this Initiated Ordinance at such regular or special election. In such event, each and every Medical Marijuana Centers, Optional Premises Cultivation Operations and Medical Marijuana Infused Products Manufacturing in operation on such effective date shall cease operations within ninety (90) days of the effective date specified in this Section 2.