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ORDINANCE NO.2010-59

A BILL

FOR AN ORDINANCE AMENDING CHAPTER 22 OF THE CITY CODE THE CITY OF AURORA, COLORADO, BY ADDING A SECTION 22-572, PROHIBITING MEDICAL MARIJUANA CENTERS, OPTIONAL PREMISES CULTIVATION OPERATIONS, AND MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURING IN THE CITY OF AURORA, COLORADO

WHEREAS, the Colorado Legislature has adopted, and the Governor has signed into law, legislation that added a new Article 43.3 to Title 12 of the Colorado Revised Statutes (“C.R.S.”), to be known as the Colorado Medical Marijuana Code; and

WHEREAS, the Colorado Medical Code clarifies state law regarding the scope and extent of Amendment 20 to the Colorado Constitution, adopted as Article XVII, Section 14, and at the same time authorizes a regulatory scheme for 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

WHEREAS, C.R.S. §12-43.3-106 of the Colorado Medical Marijuana Code specifically authorizes the governing body of a municipality to allow the registered voters of a municipality to vote on whether to prohibit the operation of medical marijuana centers, optional premises cultivation operations, and medical marijuana-infused products manufacturers’ licenses; and

WHEREAS, on November 2, 2010 the voters of the City of Aurora decided by a vote of (42,850) to (40,013) that medical marijuana centers, optional premises cultivation operations, and medical marijuana-infused products manufacturers’ licenses shall be prohibited within the City of Aurora, Colorado; and

WHEREAS, C.R.S. §12-43.3-308 (1) (c) of the Colorado Medical Marijuana Code provides that the state and local licensing authorities shall not receive or act upon a new application pursuant to the Colorado Medical Marijuana Code “for location in an area where the cultivation, manufacture and sale of medical marijuana as contemplated is not permitted under the applicable laws of the municipality, city and county or county,”; and

WHEREAS, the City Council and the voters of the City have determined that it is in the best interests of the public health, safety and welfare of the citizens of Aurora that medical marijuana centers, optional premises cultivation operations, and medical marijuana-infused products manufacturing shall not be located within the corporate limits of the City.

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

Section 1. That the City Code of the City of Aurora, Colorado, is hereby amended by adding a section, to be numbered 22-572, to Chapter 22 which section reads as follows:

SECTION 22-572. Medical Marijuana Centers, Optional Premises Cultivation Operations, or Medical Marijuana-Infused Products Manufacturing Prohibited.

I. IT SHALL BE UNLAWFUL FOR ANY PERSON TO OPERATE, CAUSE TO BE OPERATED, OR PERMIT TO BE OPERATED A MEDICAL MARIJUANA CENTER, AN OPTIONAL PREMISES CULTIVATION OPERATION, OR A MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURING FACILITY, AS THOSE TERMS ARE DEFINED UNDER C.R.S. 12-43.3-104, WITHIN THE CITY OF AURORA.

II. IT SHALL BE UNLAWFUL FOR ANY PERSON TO VIOLATE ANY PROVISION OF

SECTION 22-572 OR SECTION 22-573 OF THIS CHAPTER. ANY SUCH VIOLATION IS DESIGNATED A CRIMINAL OFFENSE. ANY PERSON FOUND GUILTY OF VIOLATING ANY PROVISION OF SECTION 22-572 OR SECTION 22-573, SHALL, UPON CONVICTION THEREOF, BE PUNISHED BY A FINE OR IMPRISONMENT OR BOTH PURSUANT TO SECTION 1-13 OF THIS CODE. EACH DAY THAT A VIOLATION OF ANY OF THE PROVISIONS OF SECTION 22-572 OR SECTION 22-573 CONTINUES TO EXIST SHALL BE DEEMED A SEPARATE AND DISTINCT VIOLATION.

III. ANY PERSON CHARGED WITH A CRIMINAL VIOLATION UNDER SECTION 22-572 OR SECTION 22-573, OF THIS CHAPTER SHALL BE ISSUED A SUMMONS AND COMPLAINT, CONSISTENT WITH THE PROVISIONS OF COLORADO MUNICIPAL COURT RULE 204. RESOLUTION OF ANY SUMMONS AND COMPLAINT IS NOT SUBJECT TO APPEAL BY THE BOARD OF ADJUSTMENT, BUT SHALL BE SUBJECT TO THE COLORADO MUNICIPAL COURT RULES OF PROCEDURE, 201 ET. SEQ.

Section 2. That pursuant to Section 5-5 of the Charter of the City of Aurora, Colorado, the second publication of this ordinance shall be by reference, utilizing the ordinance title.

INTRODUCED, READ AND ORDERED PUBLISHED this 6th day of December, 2010.

PASSED AND ORDERED PUBLISHED this _____ day of _____, 2010.

EDWARD J. TAUER, Mayor

ATTEST:

DEBRA JOHNSON, City Clerk

APPROVED AS TO FORM: _____

Dana Spade, Asst. City Attorney

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