

CITY OF WHEAT RIDGE, COLORADO
INTRODUCED BY COUNCIL MEMBER DiTullio
Council Bill No. 05
Ordinance No. 1550
Series 2014

TITLE: AN ORDINANCE AMENDING SECTIONS 11-305, 11-416 AND 26-204 OF THE WHEAT RIDGE CODE OF LAWS TO PROHIBIT THE LOCATION OF MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURERS AND RETAIL MARIJUANA PRODUCTS MANUFACTURERS IN THE C-1 ZONE DISTRICT; TO IMPOSE DISTANCE REQUIREMENTS BETWEEN SUCH MANUFACTURERS AND CERTAIN SPECIFIED LAND USES; TO HARMONIZE OTHER DISTANCE REQUIREMENTS FOR RETAIL AND MEDICAL MARIJUANA ESTABLISHMENTS; AND REPEALING THE TEMPORARY MORATORIUM ON ALL CITY ACTION RELATING TO NEW MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURERS AND RETAIL MARIJUANA PRODUCTS MANUFACTURERS' APPLICATIONS

WHEREAS, the City of Wheat Ridge ("City") is a home rule municipality operating under a charter adopted pursuant to Article XX of the Colorado Constitution and vested with the authority by that article and the Colorado Revised Statutes to adopt ordinances for the regulation of land use and the protection of the public health, safety and welfare; and

WHEREAS, pursuant to the authority granted by Section 14, Article XVIII of the Colorado Constitution and the Colorado Medical Marijuana Code, Article 43.3, Title 12, C.R.S., the Wheat Ridge City Council ("Council") previously adopted local regulations governing medical marijuana establishments, including medical marijuana-infused product manufacturers; and

WHEREAS, pursuant to the authority granted by Section 16, Article XVIII of the Colorado Constitution and the Colorado Retail Marijuana Code, Article 43.4, Title 12, C.R.S., the Council previously adopted local regulations governing retail marijuana establishments, including retail marijuana products manufacturers; and

WHEREAS, on April 28, 2014, the Council adopted Ordinance No. 1546, Series 2014, imposing a ninety-day moratorium on the submission, acceptance, processing and approval of all new applications for medical marijuana-infused products manufacturers and retail marijuana products manufacturers; and

WHEREAS, the purpose of the moratorium was to permit the Council to study and evaluate whether existing City regulations adequately ensure that marijuana product manufacturers are located only in locations that are consistent with the intent and purpose of the City's comprehensive plans, land use code, compatible with surrounding uses and otherwise in furtherance of the public health, safety and welfare; and

WHEREAS, the Council has completed its review and finds that marijuana product manufacturers are more similar to and more compatible with other uses permitted in the I-E zone district than in the C-1 zone district; and

WHEREAS, the Council further finds that marijuana product manufacturers promote the intent and purpose of the I-E zone district: to allow light industrial and commercial uses that support employment; while such manufacturers do not promote the intent and purpose of the C-1 zone district: to provide a wide range of commercial land uses which include office, general business, and retail sales and service establishments, supported by the community and/or entire region; and

WHEREAS, the Council therefore determines that it is appropriate and desirable to amend Chapter 26 of the Code to remove the designation of marijuana products manufacturers as permitted uses in the C-1 zone district while maintaining the permitted use designation of such facilities in the I-E zone district; and

WHEREAS, the Council further finds that marijuana products manufacturers are different than other manufacturers in that some of their on-hand inventory is a controlled substance that remains unlawful to possess and use, under certain circumstances, and which therefore retains the potential to be diverted to illegitimate or black market purposes; and

WHEREAS, as such, the Council finds that marijuana products manufacturers have a higher likelihood of being the victim of burglary and larceny than other manufacturers and may pose a higher risk of facilitating other unlawful activity through inventory leakage, careless disposal of excess product, etc.; and

WHEREAS, the Council therefore finds that it is necessary and desirable to impose a minimum distance requirement between marijuana products manufacturers, in the interests of minimizing the potential concentration of criminal activity that may be attendant to such facilities; and

WHEREAS, based on the foregoing, the Council further finds that it is necessary and desirable to impose the same 1,000 foot distance requirements on marijuana products manufacturers as currently apply to marijuana retail stores and medical marijuana centers in relation to schools, alcohol or drug treatment facilities, campuses and residential child care facilities; and

WHEREAS, the Council therefore wishes to amend various provisions of the Code, as further set forth herein, to render the City's regulations concerning marijuana products manufacturers more harmonious with the intent and purpose of the City's existing land use code, to locate future facilities in areas that are compatible with surrounding uses, to minimize the potential for concentrated criminal activity related to such facilities, and to minimize the potential exposure of such facilities to vulnerable populations such as children and those with substance addictions, all of which promotes the health, safety and welfare of City residents and businesses.

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

Section 1. Findings. The above and foregoing findings are hereby incorporated by this reference as specific findings and determinations of the Council.

Section 2. Section 11-305 of the Code, concerning prohibited locations of medical marijuana establishments, is hereby amended as follows:

Sec. 11-305. Prohibited locations.

- (a) Except as provided in subsection (fG) of this section, no medical marijuana establishment shall be located at a location that does not conform to the requirements of this section.
- (b) No medical marijuana center OR MEDICAL MARIJUANA-INFUSED PRODUCT MANUFACTURER shall be located within one thousand (1,000) feet of a school, an alcohol or drug treatment facility, or the principal campus of a college, university, or seminary, or a residential child care facility. THIS LIMITATION WILL BE COMPUTED BY DIRECT MEASUREMENT FROM THE NEAREST PROPERTY LINE OF THE LAND USED FOR A SCHOOL, TREATMENT FACILITY, CAMPUS OR RESIDENTIAL CHILD CARE FACILITY TO THE NEAREST PORTION OF THE BUILDING IN WHICH THE CENTER OR MANUFACTURER IS TO BE LOCATED, USING THE MOST-DIRECT ROUTE OF PEDESTRIAN ACCESS, AS DETERMINED BY THE COMMUNITY DEVELOPMENT DIRECTOR. Medical marijuana establishments that were lawfully in existence at a specific location within the city as of the effective date of this section shall not be subject to the prohibition at that location.
- (c) No medical marijuana center shall be located within three-fourths ($\frac{3}{4}$) of a mile of another medical marijuana center OR WITHIN THREE-QUARTERS ($\frac{3}{4}$) OF A MILE OF A RETAIL MARIJUANA STORE UNLESS THE MEDICAL MARIJUANA CENTER AND THE RETAIL MARIJUANA STORE ARE OPERATING A DUAL RETAIL BUSINESS AS DESCRIBED IN SECTION 11-415. THIS LIMITATION WILL BE MEASURED USING A STRAIGHT LINE FROM THE PERIMETER OF THE PARCEL WHERE A PROPOSED MEDICAL MARIJUANA CENTER WILL BE LOCATED TO THE PERIMETER OF THE PARCEL UPON WHICH THE EXISTING CENTER OR STORE IS LOCATED. Medical marijuana establishments that were lawfully in existence at a specific location within the city as of the effective date of this section shall not be subject to the prohibition at that location.

- (d) NO MEDICAL MARIJUANA-INFUSED PRODUCT MANUFACTURER SHALL BE LOCATED WITHIN ONE-QUARTER (1/4) OF A MILE OF ANOTHER MEDICAL MARIJUANA-INFUSED PRODUCT MANUFACTURER OR A RETAIL MARIJUANA PRODUCTS MANUFACTURER UNLESS THE MEDICAL MARIJUANA-INFUSED PRODUCT MANUFACTURER AND RETAIL MARIJUANA PRODUCTS MANUFACTURER ARE OPERATING AS A DUAL MANUFACTURING BUSINESS AS DESCRIBED IN SECTION 11-415. THIS LIMITATION WILL BE MEASURED USING A STRAIGHT LINE FROM THE PERIMETER OF THE PARCEL WHERE A PROPOSED MANUFACTURER WILL BE LOCATED TO THE PERIMETER OF THE PARCEL UPON WHICH THE EXISTING MEDICAL MARIJUANA-INFUSED PRODUCT MANUFACTURER OR A RETAIL MARIJUANA PRODUCTS MANUFACTURER IS LOCATED.
- (E) No person shall operate an optional premises cultivation operation within the city unless the licensed premises of the person's optional premises cultivation operation are contiguous with the licensed premises of the person's medical marijuana center license and/or the person's medical marijuana-infused products manufacturing license.
- (e F) Each medical marijuana establishment shall be operated from a permanent location. Except as permitted by the Medical Marijuana Code, no medical marijuana establishment shall be licensed to operate from a moveable, mobile, or transitory location.
- (f G) The suitability of a location for a medical marijuana establishment shall be determined at the time of the issuance of the first license for such establishment. The fact that changes in the neighborhood that occur after the issuance of the first license might render the site unsuitable for a medical marijuana establishment under this section shall not be grounds to suspend, revoke or refuse to renew the license for such establishment so long as the license for the establishment remains in effect.

Section 3. Section 11-416 of the Code, concerning prohibited locations of retail marijuana establishments, is hereby amended as follows:

Sec. 11-416. Prohibited locations.

- (a) Except as provided in subsection (gH) of this section, no retail marijuana establishment shall be located at a location that does not conform to the requirements of this section.

- (b) No retail marijuana store OR RETAIL MARIJUANA PRODUCTS MANUFACTURER shall be located within one thousand (1,000) feet of a school, an alcohol or drug treatment facility, or the principal campus of a college, university, or seminary, or a residential child care facility. This limitation will be computed by direct measurement from the nearest property line of the land used for a school, alcohol or drug treatment facility, or the principal campus of a college, university, or seminary, or a residential child care facility to the nearest portion of the building in which ~~retail marijuana is to be sold~~ THE STORE OR MANUFACTURER IS TO BE LOCATED, using a THE MOST-DIRECT route of ~~direct~~ pedestrian access, AS DETERMINED BY THE COMMUNITY DEVELOPMENT DIRECTOR.
- (c) No retail marijuana store shall be located within three-quarters ($\frac{3}{4}$) of a mile of another retail marijuana store. This limitation will be measured using a straight line from the perimeter of the parcel where a proposed retail marijuana store will be located TO THE PERIMETER OF THE PARCEL UPON WHICH THE EXISTING RETAIL MARIJUANA STORE IS LOCATED. This limitation shall apply to retail marijuana stores whether they located within or outside of the city limits.
- (d) No retail marijuana store shall be located within three-quarters ($\frac{3}{4}$) of a mile of a medical marijuana center unless the retail marijuana store and the medical marijuana center are operating a dual retail business as described in section 11-415. This limitation will be measured using a straight line from the perimeter of the parcel where a proposed retail marijuana store will be located TO THE PERIMETER OF THE PARCEL UPON WHICH THE EXISTING MEDICAL MARIJUANA CENTER IS LOCATED. This limitation shall apply to retail marijuana stores and medical marijuana centers whether they are located within or outside of the city limits.
- (e) NO RETAIL MARIJUANA PRODUCTS MANUFACTURER SHALL BE LOCATED WITHIN ONE-QUARTER ($\frac{1}{4}$) OF A MILE OF ANOTHER RETAIL MARIJUANA PRODUCTS MANUFACTURER OR MEDICAL MARIJUANA-INFUSED PRODUCT MANUFACTURER UNLESS THE MEDICAL MARIJUANA-INFUSED PRODUCT MANUFACTURER AND RETAIL MARIJUANA PRODUCTS MANUFACTURER ARE OPERATING AS A DUAL MANUFACTURING BUSINESS AS DESCRIBED IN SECTION 11-415. THIS LIMITATION WILL BE MEASURED USING A STRAIGHT LINE FROM THE PERIMETER OF THE PARCEL WHERE A PROPOSED RETAIL MARIJUANA PRODUCTS MANUFACTURER WILL BE LOCATED TO THE

PERIMETER OF THE PARCEL UPON WHICH THE EXISTING RETAIL MARIJUANA PRODUCTS MANUFACTURER OR MEDICAL MARIJUANA-INFUSED PRODUCT MANUFACTURER IS LOCATED.

- (F) No person shall operate a retail marijuana cultivation facility within the city unless the licensed premises of the person's retail marijuana cultivation facility are contiguous with the licensed premises of the person's retail marijuana store license and/or the person's retail marijuana products manufacturing license.
- (f G) Each retail marijuana establishment shall be operated from a permanent location. No retail marijuana establishment shall be licensed to operate from a moveable, mobile, or transitory location.
- (g H) The suitability of a location for a retail marijuana establishment shall be determined at the time of the issuance of the first license for such establishment. The fact that changes in the neighborhood that occur after the issuance of the first license might render the site unsuitable for a retail marijuana establishment under this section shall not be grounds to suspend, revoke or refuse to renew the license for such establishment so long as the license for the establishment remains in effect.

Section 4. The following rows within the Table of Uses for Commercial and Industrial zone districts, as set forth in Section 26-204 of the Code, are hereby amended as follows:

Uses	NC	RC	C-1	C-2	I-E
Medical marijuana-infused product manufacturers			P		P
Retail marijuana products manufacturers			P		P

Section 5. Repeal of Temporary Moratorium. The temporary moratorium imposed by City of Wheat Ridge Ordinance No. 1546, Series 2014, on the submission, acceptance, processing, and approval of any application for a City land use approval, permit or license for any medical marijuana-infused products manufacturer and any retail marijuana products manufacturer is hereby repealed and shall expire simultaneously with the effectiveness of this Ordinance.

Section 6. Effective Date. This Ordinance shall become effective on July 1, 2014, as authorized by Section 5.11 of the Wheat Ridge Home Rule Charter.

Section 7. Severability, Conflicting Ordinances Repealed. If any section, subsection or clause of this Ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall

not be affected thereby. All other ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

INTRODUCED, READ, AND ADOPTED on first reading by a vote of 5 to 2 on this 9th day of June, 2014, ordered published in full in a newspaper of general circulation in the City of Wheat Ridge, and Public Hearing and consideration on final passage set for June 23, 2014, at 7:00 p.m., in the Council Chambers, 7500 West 29th Avenue, Wheat Ridge, Colorado.

READ, ADOPTED AND ORDERED PUBLISHED on second and final reading by a vote of 7 to 1, this 23rd day of June, 2014.

SIGNED by the Mayor on this 23rd day of June, 2014.



ATTEST:

Janelle Shaver
Janelle Shaver, City Clerk

Joyce Jay
Joyce Jay, Mayor

Approved as to Form

Gerald E. Dahl
Gerald E. Dahl, City Attorney

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