

ORDINANCE NO. 1770

INTRODUCED BY: BENSON, DROTAR, JAQUITH, MCELLOWNEY, NATALE

AN ORDINANCE AMENDING THE LAND DEVELOPMENT CODE OF THE CITY OF COMMERCE CITY FOR THE PURPOSE OF REGULATING MEDICAL MARIJUANA DISPENSARIES

WHEREAS, because federal and state law prohibit the possession and sale of marijuana generally, marijuana sales have never been addressed by the City's zoning ordinances; and

WHEREAS, the voters of the State of Colorado affirmed the medical use of marijuana by voting for Amendment 20 to the Colorado Constitution in November of 2000; and

WHEREAS, the intent of Amendment 20 was to enable persons who are in medical need of marijuana to be able to obtain and use it without fear of criminal prosecution; and

WHEREAS, there appears to be a proliferation of businesses wishing to provide medical marijuana to those who qualify under state law (“medical marijuana dispensaries”); and

WHEREAS, the existing City zoning regulations do not provide for the location and regulation of medical marijuana dispensaries and such uses might be permissible in any zone that allows retail uses, drug stores, or medical facilities; and

WHEREAS, if medical marijuana dispensaries were allowed to be established without appropriate regulation as to the location, such uses might be established in areas that would conflict with the City’s comprehensive land use plan, be inconsistent with surrounding uses, or be detrimental to the public health, safety and welfare; and

Whereas, the City Council of the City of Commerce City believes this ordinance is necessary to safeguard the urban environment by permitting compliance with state law in a manner consistent with the aforementioned concerns.

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

SECTION 1. Table V-1 of the Land Development Code of the City of Commerce City is hereby amended to specify that medical marijuana dispensaries shall be permitted as a conditional use in the following zone districts: I-1, I-2, and I-3.

SECTION 2. The Land Development Code of the City of Commerce City is hereby amended by adding Section 21-5249, titled Medical Marijuana Dispensaries, which shall read as follows:

Sec. 21-5249. Medical Marijuana Dispensaries.

- (1) **Definition.** The term “medical marijuana dispensary” shall mean and include the use of any property or structure to grow, store, distribute, transmit, give, dispense, or otherwise provide marijuana in any manner, in accordance with Section 14 of Article XVIII of the Colorado Constitution (“Medical Marijuana Amendment”). Notwithstanding the foregoing, the term shall not include the use of a property or structure owned or legally occupied by a patient, as that term is defined by the Medical Marijuana Amendment, to grow or store marijuana for such patient’s personal use in accordance with the Medical Marijuana Amendment. Furthermore, the term shall only include a dispensary that exclusively sells marijuana to a patient as a retail sale within the City of Commerce City, with no warehousing of marijuana allowed except such warehousing as is accessory to the retail sale of marijuana to the extent authorized by Amendment 20 to the Colorado Constitution. The term “retail sale” as used in this section, shall have the same meaning as is used in the Commerce City Tax Code.
- (2) **Location.** No medical marijuana dispensary shall be located within 1,000 feet of the following:
 - (a) The exterior boundary of any public zone district;
 - (b) The exterior boundary of any residential zone district;
 - (c) The exterior boundary of any existing or occupied mobile home;
 - (d) The exterior boundary of any lot on which there is located a single family or multifamily residence, whether located within or outside of the city;
 - (e) Any church or religious institution;
 - (f) Any educational institution or school, either public or private;
 - (g) Any licensed child care facility;
 - (h) Any alcohol or drug rehabilitation facility;
 - (i) Any group home for the developmentally disabled;
 - (j) Any public community center, park, fairground, or recreation center, or any publicly owned or maintained building open for use to the general public;
 - (k) Any other medical marijuana business whether such business is located within or outside of the city; or
 - (l) Any halfway house or correctional facility.
- (3) **Advertisements.** 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 to the public, from roadways, pedestrian sidewalks or walkways, or from other public areas.
- (4) **Indoor Use.** All business related to, or consumption of, medical marijuana shall be conducted indoors, and all building openings, entries, and windows shall be located, covered, or screened in such a manner as to prevent a view into the interior; and for new construction, the building shall be constructed so as to prevent any possibility of viewing the interior from the exterior of such structure.
- (5) **Security.** Medical marijuana dispensaries shall provide adequate security on the premises to discourage and to facilitate the reporting of criminal acts and nuisance activities. At a minimum, such security shall include:

- (a) Security surveillance cameras and a security alarm system installed to monitor each entrance, all windows and all other points of access to the premises
- (b) Security surveillance cameras installed to monitor the exterior of the premises.
- (c) Security video shall be preserved for at least 72 hours and made available for inspection at the request of the Commerce City Police Department.

SECTION 3. This ordinance shall be reviewed by the City Council in approximately six months from the date of its final adoption or sooner if determined by the office of the City Manager that just cause exists for the need of such review.

INTRODUCED, PASSED ON FIRST READING AND PUBLIC NOTICE ORDERED THIS 5TH DAY OF OCTOBER, 2009.

PASSED ON SECOND AND FINAL READING AND PUBLIC NOTICE ORDERED THIS 2ND DAY OF NOVEMBER, 2009.

CITY OF COMMERCE CITY, COLORADO

BY:

Paul Natale, Mayor

ATTEST:

Laura J. Bauer, CMC, City Clerk