

CITY PLANNING COMMISSION AGENDA

STAFF:
MATTIE ALBERT GULLIXSON

FILE NO:
CPC CA 18-00073 – LEGISLATIVE

PROJECT: AMENDMENT TO CITY CODE SECTION 7.3.205

APPLICANT: CITY OF COLORADO SPRINGS

OWNERS: N/A

PROJECT SUMMARY

1. **Project Description:** The proposed ordinance modifies City Code Section 7.3.205 (Additional Standards for Specific Land Uses) by instituting a one thousand foot (1,000') buffer between medical marijuana centers. Existing medical marijuana center locations that are within one thousand feet (1,000') of another center will be considered legal nonconforming uses pursuant to City Code §7.5.1201, *et seq.* The ordinance change will only apply to medical marijuana center change of location requests, as City Code §2.2.104(D) already prohibits any new medical marijuana centers. While there already has been saturation of medical marijuana centers in specific areas, buffers between medical marijuana centers will serve to limit any further saturation and alleviate some existing issues as licenses or locations are surrendered.
2. **Applicant's Project Statement:** N/A
3. **Planning and Development Team's Recommendation:** Staff recommends that the Planning Commission recommend adoption of the ordinance to the City Council.

BACKGROUND

In 2000, Colorado became one of the first states to provide an affirmative defense to the limited possession and use of medical marijuana through the passage of Amendment 20. A decade later, the Colorado State Legislature approved legislation licensing the commercial production and distribution of medical marijuana.

As the medical marijuana industry developed in Colorado Springs, the city enacted few zoning regulations, leading to an abundance of 169 medical marijuana centers (MMCs), 206 optional premises cultivations (grows), and 70 marijuana infused products manufacturers (MIPs). Medical marijuana businesses made up 303 unique locations throughout the city. Many locations were, and continue to be, along major arteries in more established areas of the city, including Old Colorado City, Platte Avenue, pockets around downtown, and industrial areas.

The growth of the industry, along with the emergence of other illegal grow and production issues, led to the creation of the City Council Marijuana Task Force ("Task Force") in 2015. In

conjunction with the Task Force, a moratorium on new licenses was implemented to allow time to evaluate the regulatory environment and needs of the community.

Through the work of community partners and stakeholders, the Task Force proposed several regulatory measures, including a cap on the number of locations for marijuana businesses, and the number of licenses available. Additional regulations proposed by the Task Force included increasing the buffer between medical marijuana centers and any public or private elementary, middle, junior high or high school, or a residential childcare facility or a drug or alcohol treatment facility from four hundred feet (400') to one thousand feet (1,000'). Cumulatively, these regulations addressed the issue of location concentration from several angles. All of the recommendations of the Task Force were passed by City Council in 2015 and 2016. The Task Force ended its work in April 2016.

Recognizing the need for ongoing work in local marijuana regulations, the Council President's Special Marijuana Working Group was established in 2016. Through constant evaluation of other jurisdictions' work, the lack of a buffer between medical marijuana centers emerged as an issue that is inconsistent with other jurisdictions similar to Colorado Springs.

In other jurisdictions, the question of location concentration – or saturation – included distance requirements from the locations listed previously, but also addressed an additional layer of buffers between medical marijuana centers. Larger jurisdictions like Boulder, Denver, and Fort Collins established a buffer between medical marijuana centers for the express purpose of “avoid[ing] ‘clusters’ of MMDs [Medical Marijuana Dispensaries] so as to minimize their cumulative impact on any other particular area of the community” (Feb 9, 2010, Work Session Item, Fort Collins City Council, p.4). While the distances may vary between jurisdictions, the most consistent distance was one thousand feet (1,000'). Denver, Pueblo, Monument, Littleton, and Golden are among other jurisdictions with the one thousand foot (1,000') buffer. Wheat Ridge and Lakewood have a higher threshold (3/4 mile, or 3,960 feet); the buffer in Boulder is five hundred feet (500') with three (3) other medical marijuana centers; Durango is two hundred and fifty feet (250'), and Manitou Springs is two hundred feet (200').

If adopted in Colorado Springs, a buffer between MMCs will not have a substantial effect on the industry as the number of location change applications is minimal. Since the end of the moratorium and implementation of the location cap in May 2017, there have been only four (4) applications for changes of location for medical marijuana centers, two of which were for new locations that did have another existing licensed medical marijuana center within one thousand feet (1,000').

Existing medical marijuana centers will become considered legal nonconforming uses pursuant to City Code §7.5.1201, *et seq.* Figure 1 reflects the several medical marijuana centers that will become legal nonconforming with a setback of one thousand feet (1,000') – the yellow rings around each center represents the setback.

The status of legal nonconforming land uses means that the use of the building and land legally existed within the City zoning standards that were in place at the time of the start of the use and now does not conform to the use regulations of the zone district in which is located under new zoning standards. For the centers affected, the status means that the buildings in which the centers exist may not be expanded in a way that would violate the existing zoning standards. If a center location is surrendered, the allowance of another medical marijuana center in that same location would require analysis and a determination by the Land Use Review Division.

STAKEHOLDER PROCESS AND INVOLVEMENT

Since this is a zoning code text amendment applicable city-wide, direct property owner notification and posting is not required.

The issue of setbacks between medical marijuana centers was brought to the attention of the Council President's Marijuana Working Group by representatives of the medical marijuana industry, and the proposal received unanimous support.

ANALYSIS OF REVIEW CRITERIA/MAJOR ISSUES/COMPREHENSIVE PLAN & MASTER PLAN CONFORMANCE

1. Review Criteria/Design & Development Issues
Text amendments to the zoning code are authorized by City Code Section 7.5.602.A. There are no specific review criteria for text amendments.
2. Conformance with the City Comprehensive Plan
There are no specific policies or strategies that provide guidance related to this proposed amendment.
3. Conformance with the Area's Master Plan
N/A

STAFF RECOMMENDATION:

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Move to recommend adoption of an ordinance to the City Council amending Section 205 (Additional Standards for Specific Land Uses) of Part 2 (Commercial Districts) of Article 3 (Land Use Zoning Districts) of Chapter 7 (Planning, Development and Building) of the Code of the City of Colorado Springs 2001, as amended, pertaining to the location of medical marijuana centers, based on the finding that it complies with City Code Sections 7.5.602 and 7.5.603.