



Legislation Text

File #: 16-278, **Version:** 2

Ordinance No. 16-56 amending Section 107 (Application Investigation; Decision), Section 108 (Suspension or Revocation; Hearings; Decision), and Section 109 (Unlawful Acts) of Part 1 (Medical Marijuana License Code) of Article 2 (Marijuana) of Chapter 2 (Business Licensing, Liquor Regulation and Taxation) of the code of the City of Colorado Springs 2001, as amended, pertaining to Medical Marijuana License Code

Presenter:

Councilmember Larry Bagley
City Clerk Sarah Johnson

Summary:

This ordinance to amend the existing Medical Marijuana (MMJ) License Code is based on input and discussion with the City Council Marijuana Task Force and previous stakeholder discussions. In addition to minor grammatical and reference corrections, the proposed changes address the streamlining of the resolution of uncontested violations of the code, adds language to codify existing interpretations and policies of State MMJ code and rules, and adds clarification for certain unlawful acts.

Previous Council Action:

Medical Marijuana Related Ordinances:

- City Ordinance 10-45 (creating new City Code 2.3.11 for MMJ Pre-Application Registration)
- City Ordinance 10-107 (creating definitions, zoning, and specific Land Use standards for MMJ)
- City Ordinance 11-32 (amending City Code 2.3.1 to create City MMJ Code)
- City Ordinance 15-79 (creating a six month moratorium on MMJ Land Use and licensing reviews)
- City Ordinance 16-32 (renaming and moving MJ code)

The current City of Colorado Springs Medical Marijuana (MMJ) License Code was enacted by Ordinance 11-32.

On September 22, 2015, Councilmember Don Knight introduced an item to City Council to enact a moratorium on new MMJ facilities and applications. After discussion and amendments, the City Council approved Ordinance 15-79 creating a six month moratorium on the “processing of any new land use or licensing approvals for any new medical marijuana facility within the City limits, with the six (6) month period to run from November 26, 2015 to and including May 25, 2016.” As part of this ordinance, the City Council President appointed a Task Force to “review, study, develop, evaluate, and review appropriate laws and regulations pertaining to marijuana businesses for presentation to the City Council including but not limited to location and licensing criteria, fees, advertising, and other

time, place, manner, and number regulations.”

Background:

Amendment 20 (C.R.S.A. Const, Art. 18 § 14), was passed in November, 2000, authorizing Medical Marijuana cultivation, sales, and product manufacturing. Amendment 20 and the resulting enabling Statutes and Regulations essentially separate activities into the following two categories: (1) confidential patient and caregiver registration with the Colorado Department of Public Health & Environment, and (2) commercial, licensed, sales, cultivation, and product manufacturing of Medical Marijuana. While Amendment 20 did not necessarily create a state constitutional legalization of personal use of marijuana (as does Amendment 64), it does provide an affirmative defense and an exception from the State’s criminal law for Medical Marijuana possession and use by patients with a debilitating medical condition.

C.R.S. § 12-43.3, et. seq., creates a dual jurisdictional (State and City) regulatory authority for Medical Marijuana business licensing. State MMJ Statute and Marijuana Enforcement Division Regulations are the primary and rather comprehensive governing laws, with City MMJ License Code and Rules being supplementary laws to address specific local concerns and local procedures. For those items not specifically addressed in City MMJ License Code and Rules, the State law prevails. Additionally, while the City has home rule authority to enact local ordinances, and the existing State MMJ law does give wide latitude to the local authority, the local laws cannot be in conflict with or less restrictive than State law. The City MMJ Code has not been reviewed or amended since its adoption in 2011.

An analysis of the current City MMJ Code and Rules, along with MMJ Task Force discussions, suggests few substantive changes to the City MMJ Code and a few procedural changes for the MMJ Rules. The City MMJ Rules and Regulations rulemaking process resulting in MMJ code changes is administrative through the City Clerk’s Office (with applicable stakeholder input). The following are highlights of the suggested changes only to the City MMJ License Code. These changes are, in part, to assist the applicant/licensee in determining clear and unambiguous compliance with State and local law:

- Minor grammatical and reference corrections
- Streamlining resolution of uncontested violations (again, in the effort to achieve compliance)
- Unlawful Acts additions:
 - Clarifying existing interpretations and policies (no outdoor grows or drive up windows, not visible, modifications, etc.)
 - Specifying disclosure for hazardous v. non-hazardous MIP processes (in concert with zoning and fire code)
 - Specifying allowed hours of operation
 - Specifying what an MMC can or cannot sell
 - Odor mitigation requirements (in concert with zoning changes)
 - Preparing code for future action or restrictions on advertising, including the medicinal use of MMJ.

Financial Implications:

City Clerk’s Office costs associated with these proposed code changes for MMJ business licenses appear to minimal, and are substantially recovered through the existing license and application fee structure. Further analysis of enforcement activities and related cost impacts may be recommended

in the future.

Board/Commission Recommendation:

At the March 14, 2016 meeting, the City Council Marijuana Task Force made a unanimous recommendation to make these changes to the existing Medical Marijuana License Code.

Stakeholder Process:

This and related topics were considered by the City Council Marijuana Task Force at public meetings, and with stakeholder input.

Alternatives:

N/A

Proposed Motion:

Approve the ordinance to amend the Medical Marijuana License Code.

Enacting amendments and changes to the Medical Marijuana License Code.