



Legislation Text

File #: CPC CA 18-00073, **Version:** 3

Ordinance No. 18-81 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

Presenter:

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Summary:

The proposed ordinance is an amendment to Chapter 7 (“Zoning Code”) of City Code to institute a one thousand foot (1,000’) buffer between medical marijuana centers, to be measured from the nearest portion of the building used for the medical marijuana center to the nearest property line of another medical marijuana center using a route of direct pedestrian access. 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 section 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.

Previous Council Action:

In 2016, City Council approved Ordinance 16-54, increasing a four hundred foot (400’) buffer from “any public or private elementary, middle, junior high or high school, or a residential childcare facility or a drug or alcohol treatment facility” to one thousand feet (1,000’). The distance was determined to be measured from the nearest portion of the building used for the medical marijuana center to the nearest property line of the school, residential childcare facility or drug or alcohol treatment facility using a route of direct pedestrian access.

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, there were few zoning regulations in place, leading to an abundance of 445 total license types (medical marijuana centers, grows, and infused products manufacturers), and 303 unique locations throughout the city. Many locations are along major arteries in more established areas of the city, including Old Colorado City, Platte Avenue,

pockets around downtown, and industrial areas.

In 2015 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 (the "Task Force") in conjunction with a moratorium on new licenses 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 that placed 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 sides. 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 of 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 center concentration - or saturation - included distance requirements from the locations listed, 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 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'). 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 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 which 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 extended in a way that would violate the existing zoning standards. And if a center location is

surrendered, the allowance of another medical marijuana center in that same location would require determination by the Land Use Review Division.

Financial Implications:

N/A

Board/Commission Recommendation:

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

This item is scheduled to be heard by the City's Planning Commission on July 19, 2018,

Stakeholder Process:

The ordinance was discussed with the Council President's Special Marijuana Working Group, and was given general support to move forward. The medical marijuana industry representatives on the Council President's Special Marijuana Working Group are supportive of the change.

Alternatives:

City Council could approve, deny, or amend the ordinance as proposed.

Proposed Motion:

Approve the ordinance as presented.

An ordinance establishing a one thousand foot (1,000') buffer between medical marijuana medical marijuana centers to prevent ongoing concentration of medical marijuana centers in the City.