



# ADDITION TO SUBSECTION 7.5.303.F OF THE UNIFIED DEVELOPMENT CODE RELATING TO LOCATION OF RETAIL MARIJUANA STORES

City Council September 10, 2024

Staff Report by Case Planner: Kevin Walker, Interim Planning and Neighborhood Services Director

***Unified Development Code (UDC) Subsection 7.3.303.F “Marijuana-Related Services”***

***5. Retail Marijuana Store***

***a. To the extent that Retail Marijuana Stores are permitted by law, this use shall be located at least one (1) mile from any Elementary or Secondary School, Residential Childcare Facility, or Drug or Alcohol Treatment Facility. This minimum distance shall be measured from the nearest portion of the building used for the Retail Marijuana Store to the nearest property line of the school, Residential Childcare Facility, or Drug or Alcohol Treatment Facility using a route of direct pedestrian access.***

***b. This Subsection (5) does not authorize the sale of retail marijuana.***

## Project Summary

City Council referred proposed language for a change to the Unified Development Code (UDC) to add the above language to the UDC requiring distance separation between certain uses and potential Retail Marijuana Stores. See the attached Draft Ordinance No. 24-397 for the proposed language.

File Number	Application Type	Decision Type
Ord No. 24-397	Ordinance Change	Legislative

## Background

On July 22, 2024, City Council discussed the proposed language for a change to the Unified Development Code (UDC) to add language to the UDC requiring distance separations between certain uses and potential Retail Marijuana Stores (see attached Draft Ordinance No. 24-397). This change applies to recreational marijuana rather than medical marijuana (MMJ) requirements codified since 2010. It would not impact the City’s medical marijuana (MMJ) provisions. For purposes of this Staff Report, “Retail Marijuana” is synonymous with recreational marijuana. See the attached partial DRAFT Minutes of the July 22, 2024, Work Session of City Council.

A citizen’s initiative has submitted and had approved adequate signatures for an Initiated Ordinance that would, among other things, allow Retail Marijuana Stores to be able to co-locate with medical marijuana dispensaries (MMCs). See attached information on the citizen initiative. The City Clerk has completed an initial review of signatures and presented a finding of inadequate signatures to the initiative proponents. As of August 27, 2024, the initiated ordinance has been referred to the ballot in November.

City Council placed a Charter Amendment on the ballot that will prohibit Retail Marijuana Stores. See the attached Charter Amendment language. Currently, Retail Marijuana Stores are not allowed in City limits per Subsection 7.3.303.F.1.a of the UDC. See attached Section of the UDC.

Subsection 7.5.702.C.1 permits “only a City department, enterprise, appointed board of the City, or City Council to submit an application to amend the text of the UDC”. Pursuant to Subsection 7.5.702.C.2.a of the UDC, the Planning Commission shall review the application at a public hearing and forward its recommendation to City Council. See attached UDC Section 7.5.702 “Amendment to UDC Text”.

At a public hearing on August 28, 2024, City Planning Commission voted 6-1 to not recommend to City Council the adoption of the ordinance.

## Change of UDC Text – Legislative action

### Summary of Application

If Retail Marijuana Stores are permitted by the Code, they shall be at least one (1) mile from an Elementary or Secondary School, Residential Childcare Facility, or Drug or Alcohol Treatment Facility.

### Approval Considerations per Subsection 7.5.702.D.1.

#### D. Approval Considerations

##### 1. General

The Planning Commission may recommend approval or approval with conditions, and City Council may approve or approve with conditions, after paying due regard to each of the following factors:

- a. The Colorado Springs Comprehensive Plan and other plans adopted by City Council  
*The Comprehensive Plan is silent on this matter and no other adopted Plans by the Council have been found that address this issue.*
- b. The current conditions and character of current structures and uses in each zone district.

N/A

- c. The most desirable use of land in each zone district.

*Table 7.3.2-A of the Unified Development Code (UDC) outlines the zone districts where medical marijuana dispensaries (MMCs) are allowed (see attached) with conditions as outlined in Subsection 7.3.303.F “Marijuana-Related Uses” (see attached).*

*Use of distance requirements in managing the location of sale of controlled substances are a standard and accepted process in development codes.*

- d. The conservation of sensitive environmental features.

N/A

e. Promotion of responsible development and growth.

*N/A*