

CITY OF EDGEWATER
ORDINANCE NO. 2015 - 04
SERIES OF 2015

AN ORDINANCE IMPOSING A TEMPORARY MORATORIUM ON THE SUBMISSION, ACCEPTANCE, PROCESSING, AND APPROVAL OF ANY APPLICATION FOR A CITY OF EDGEWATER PERMIT OR LICENSE RELATED TO THE OPERATION OF A MARIJUANA-RELATED BUSINESS AND DECLARING THE INTENTION OF THE CITY COUNCIL TO CONSIDER (I) THE ADOPTION OF AMENDMENTS TO EXISTING CITY REGULATIONS CONCERNING THE LOCATIONS OF SUCH BUSINESSES AND (II) THE ADOPTION OF LIMITATIONS ON THE NUMBER OF SUCH BUSINESSES WITHIN THE CITY; DECLARING AN EMERGENCY; AND PROVIDING FOR THE IMMEDIATE EFFECTIVE DATE OF THIS ORDINANCE.

WHEREAS, the City of Edgewater (“City”) is a home rule municipal corporation organized and existing under Article XX of the Colorado Constitution; and

WHEREAS, Article XVIII, Section 14, of the Colorado Constitution provides for the use and possession of medical marijuana and the Colorado Medical Marijuana Code provides for the creation of business operations known as medical marijuana centers, medical marijuana products manufacturers, and optional premises (for the purpose of cultivation of marijuana); and

WHEREAS, Article XVIII, Section 16, of the Colorado Constitution provides for the personal use and regulation of recreational marijuana and, along with the Colorado Retail Marijuana Code, provides for the creation of business operations known as “marijuana establishments,” which are entities in the business of selling at retail, cultivating, manufacturing and/or testing marijuana, marijuana accessories and marijuana products; and

WHEREAS, the Colorado Constitution, as well as the Colorado Medical Marijuana Code and the Colorado Retail Marijuana Code allows a municipality to determine whether or not medical and/or retail marijuana business establishments will be permitted within the municipality, and, if permitted, allows municipalities to regulate the time, place and manner under which such operations may be conducted; and

WHEREAS, the City has previously adopted regulations that allow, subject to various time, place and manner limitations, for the conduct of medical and retail marijuana businesses within the City; and

WHEREAS, a majority of municipalities within the state and within the Denver metropolitan area have determined to either prohibit medical and retail marijuana business operations within their jurisdictions, or have imposed moratoria on the establishment of any such operations pending either a decision to permit and regulate or to prohibit such operations; and

WHEREAS, the City Council finds that the result of said prohibitions or moratoria has been to cause those jurisdictions that allow for medical or retail marijuana businesses, such as the City, to be presented with applications and proposals for such uses that greatly exceed the reasonable needs and desires of the community for such uses; and

WHEREAS, the City Council finds that the pressure for the establishment of such operations within the City threatens to create undue concentrations of such uses, and to remove or threaten to remove from the marketplace commercial properties that are necessary to provide for the broad range of commercial products and services that are needed and desired in the community; and

WHEREAS, the imposition of a moratorium to and through August 31, 2015, on the submission, acceptance, processing, and approval of any applications for City permits and licenses concerning the operation of marijuana businesses will allow the City staff and the City Council to develop and implement regulations designed to limit the concentration and/or number of marijuana businesses within the City; and

WHEREAS, a moratorium to and through August 31, 2015 is reasonable and no longer than necessary for the City to properly investigate, develop, and if appropriate, adopt and implement any regulations designed to limit the number and/or concentration of marijuana businesses within the City; and

WHEREAS, no person will be unduly prejudiced by the imposition of such moratorium.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EDGEWATER, COLORADO THAT:

Section 1. Findings and Intent. The City Council of the City of Edgewater, Colorado finds, determines and declares that the above and foregoing recitals are incorporated herein by reference.

Section 2. Imposition of Temporary Moratorium.

Subject to the provisions of Section 3 below, a moratorium is hereby imposed on the submission, acceptance, processing, and approval of any application for a City permit or license to operate a marijuana-related business within the City pursuant to applicable state and City laws. Subject to the provisions of Section 3 below, the City staff is directed to refuse to accept for filing, and not to process or review any application for a marijuana-related business within the City during the moratorium period.

Section 3. Applicability and Effective Dates of Moratorium.

The City Council finds and determines that, in the context of the licensing of marijuana-related businesses, it is unfair and inequitable to impose new licensing standards on license applications that were pending, but not yet approved, at the time

the new standards were adopted. Accordingly, it is the intent of the City Council that the moratorium established by this Ordinance 15-04 shall not be applied to any application for a license that was pending approval as of February 10, 2015. The moratorium imposed by this ordinance shall commence as of the date of adoption of this Ordinance 15-04, and shall expire as of September 1, 2015, unless sooner repealed.

Section 4. Staff to Investigate and Prepare Proposed Regulations.

Before the expiration of the moratorium imposed by this ordinance, City staff, working with the City Attorney, shall investigate, review and analyze potential new City regulations for marijuana-related businesses that are designed to limit the concentration and/or number of marijuana businesses within the City. Such investigation, review and analysis shall be completed promptly and with due diligence, and submitted to the City Council for consideration. The City Council declares that it will give due and timely consideration to the adoption of any proposed regulations.

Section 5. Police Power Finding.

The City Council hereby finds, determines and declares that this ordinance is necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the order, comfort and convenience of the City of Edgewater and the inhabitants thereof.

Section 6. Authority.

The City Council hereby finds, determines and declares that it has the power to adopt this ordinance pursuant to: (i) the Local Government Land Use Control Enabling Act, Article 20 of Title 29, C.R.S.; (ii) Part 3 of Article 23 of Title 31, C.R.S (concerning municipal zoning powers); (iii) Section 31-15-103, C.R.S. (concerning municipal police powers); (iv) Section 31-15-401, C.R.S., (concerning municipal police powers); (v) the authority granted to home-rule municipalities by Article XX of the Colorado Constitution; and (vi) the powers contained in the Edgewater City Charter.

Section 7. Emergency Declaration.

The City Council of the City of Edgewater hereby finds, determines and declares that an emergency exists and that this ordinance is necessary for the immediate preservation of public property, health, welfare, peace or safety. The adoption of this ordinance on an emergency basis is necessary to prevent a person from filing an application for a City permit or license relating to the operation of a marijuana-related business until the City has had a reasonable opportunity to review and analyze potential new City regulations for marijuana-related businesses. Failure to immediately impose the moratorium provided for in this ordinance may allow for the establishment of a marijuana-related business in a manner that would be out of character in the community, and which would negatively impact the City and the health, safety and welfare of its citizens.

Accordingly, the City Council determines that the adoption of this ordinance as an emergency ordinance is in the best interests of the citizens of the City of Edgewater.

Section 8. Severability.

Should any one or more sections or provisions of this ordinance be judicially determined to be invalid or unenforceable, such determination shall not affect, impair or invalidate the remaining sections or provisions of this ordinance, it being the intent of the City Council of the City of Edgewater that such invalid or unenforceable provisions are severable.

Section 9. Effective Date.

The City Council of the City of Edgewater finds and concludes that this ordinance is necessary for the immediate preservation of the health, safety, and welfare and protection of the citizens of the City, and, therefore, this ordinance shall be effective immediately upon its approval by the City Council.

INTRODUCED, PASSED AND FINALLY ADOPTED ON FIRST READING AND PUBLICATION IN ACCORDANCE WITH LAW ORDERED THIS 12th DAY OF FEBRUARY, 2015.

/s/ Bonnie McNulty, Mayor

ATTEST:

/s/ Elizabeth A. Hedberg, MMC
City Clerk

APPROVED AS TO FORM:

/s/ Thad Renaud, City Attorney

CERTIFICATE OF PUBLICATION

STATE OF COLORADO)
)
CITY OF EDGEWATER) SS:
)
COUNTY OF JEFFERSON)

I, Beth A. Hedberg, City Clerk, in and for said City of Edgewater, in the County of Jefferson, in the State of Colorado, do hereby certify that Ordinance 2015-04 was published in full on the City website in accordance with Section 1-3-50 of the Edgewater Municipal Code on February 13, 2015. In witness whereof, I have hereunto set my hand and the seal of the City of Edgewater, this 13th day of February, 2015.

/s/ Beth A. Hedberg, MMC
Edgewater City Clerk

SUMMARIZED HISTORY FOR ORDINANCE NO. 2015-04

Action	Date
Workshopped	February 5, 2015
First and Final Reading	February 12, 2015
Posted	February 13, 2015
Publication	February 13, 2015
Sent to Codifier	N/A
Enacted	February 12, 2015