

CITY OF EDGEWATER
ORDINANCE NO. 2015 - 07
SERIES OF 2015

AN ORDINANCE AMENDING ARTICLES 30 AND 32 OF CHAPTER 16 OF THE EDGEWATER MUNICIPAL CODE, CONCERNING MEDICAL MARIJUANA AND RETAIL MARIJUANA, RESPECTIVELY, TO ESTABLISH LIMITS ON THE NUMBER OF MARIJUANA BUSINESSES WITHIN THE CITY AND TO AMEND EXISTING CITY REGULATIONS CONCERNING THE LOCATIONS OF SUCH BUSINESSES, BY AMENDING SECTIONS 16-30-100 OF THE CODE, CONCERNING THE LOCATION OF MEDICAL MARIJUANA BUSINESSES, 16-30-130 OF THE CODE, CONCERNING PROHIBITED ACTS RELATED TO MEDICAL MARIJUANA BUSINESSES, 16-32-90 OF THE CODE, CONCERNING THE LOCATION OF RECREATIONAL MARIJUANA BUSINESSES, AND 16-32-130 OF THE CODE, CONCERNING PROHIBITED ACTS RELATED TO RETAIL MARIJUANA BUSINESSES; AND REPEALING THE 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.

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, the Colorado Medical Marijuana Code and the Colorado Retail Marijuana Code allow 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 City Council finds and determines, based on the City's nearly four (4) years of experience with medical marijuana businesses and nearly eighteen (18) months of experience with retail marijuana businesses, that five (5) store fronts offering medical, or retail, or both medical and retail marijuana for sale, have proven adequate to meet the needs and desires of the community for such establishments, while, at the same time, neither creating an undue concentration of such uses nor overburdening City staff with respect to licensing administration and law enforcement; and

WHEREAS, the City Council therefore desires to repeal Ordinance No. 15 -04, Series 2015, thereby lifting the moratorium on new marijuana businesses within the City, and to impose a numerical cap of five (5) marijuana businesses permitted to be licensed and operating in the City at any one time; and

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

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

Section 1. Section 16-30-100 of the Edgewater Municipal Code, concerning locational criteria for medical marijuana businesses, is hereby amended to read as follows:

Sec. 16-30-100. Locational criteria and numerical limit on marijuana businesses.

(a) No medical marijuana business shall be issued a license if, at the time of application for such license, the proposed location is:

- ~~1. within 500 feet of any licensed child care facility;~~

- ~~2. within 500 feet of any educational institution or school, either public or private;~~
- ~~3. within 500 feet of any halfway house, group home or correctional facility; or~~
- ~~4. within 500 feet of another medical marijuana business or of a retail marijuana establishment as defined in Section 16-32-20 of this Chapter.~~

(b) The distances set forth in Subsection (a) above shall be computed by direct measurement in a straight line from the nearest property line of the educational institution or school, ~~lot used for the purposes stated in Subsections (a)1., (a)2., (a)3. and (a)4., respectively,~~ to the nearest property line of the lot on which the medical marijuana business is located.

(c) The locational criteria contained in Subsection (a) of this Section shall apply to all proposed changes in the location of an existing license.

(d) Any provisions of this Code concerning home occupations notwithstanding, no medical marijuana business shall be located in a residential zoning district.

(e) No medical marijuana center shall be issued a license if the proposed location, if approved, will exceed the maximum number of licensed locations permitted in the City.

(1) The maximum total combined number of medical marijuana centers and retail marijuana stores in the City shall not exceed five (5). For purposes of this paragraph, a medical marijuana center and a retail marijuana store co-located in accordance with Section 16-32-110 shall be counted as one (1) center/store. The limitations of this paragraph on the maximum total combined number of medical marijuana centers and marijuana stores shall not be applied so as to effect licenses in existence as of May 1, 2015, nor to the renewal of any such licenses.

Section 2. Subsections 16-30-130(c) and (d) of the Edgewater Municipal Code, concerning prohibited acts for medical marijuana businesses, is hereby amended to read as follows:

(c) It shall be unlawful for any optional premises cultivation operation to:

- (1) operate in the City, unless it operates within the licensed premises of, and as an optional premises to a medical marijuana center or a medical marijuana-infused products manufacturer located in the City that is under the same ownership as the optional premises cultivation operation; or
- (2) sell, give, dispense or otherwise distribute medical marijuana except to a medical marijuana center or medical marijuana-infused products

manufacturer located in the City that is under the same ownership as the optional premises cultivation operation.

(d) It shall be unlawful for any medical marijuana-infused products manufacturer to:

- (1) operate in the City unless its owner also holds a medical marijuana center license in the City, and the medical marijuana infused products manufacturer operates within the licensed premises of the medical marijuana center; or
- (2) sell, give, dispense or otherwise distribute any of the products that it manufactures except to a medical marijuana center located in the City that is under the same ownership as the medical marijuana-infused product manufacturer.

Section 3. Section 16-32-90 of the Edgewater Municipal Code, concerning locational criteria for retail marijuana businesses, is hereby amended to read as follows:

Sec. 16-32-90. Locational criteria and numerical limit on marijuana establishments.

(a) A retail marijuana establishment shall be operated from a permanent, indoor location and, except as further limited in this Section, within a zone district of the City that allows for the type of use(s) to be conducted by the retail marijuana establishment. No retail marijuana establishment shall be permitted to operate from a moveable, mobile or transitory location. The suitability of a location for a retail marijuana establishment shall be determined at the time of the issuance of the first license. The fact that later changes in the neighborhood occur that may render the site unsuitable for a retail marijuana establishment shall not be grounds to suspend, revoke or refuse to renew the license. No retail marijuana establishment shall be issued a license if, at the time of application for such license, the proposed location is:

- ~~5. within 500 feet of any licensed child care facility;~~
6. within 500 feet of any educational institution or school, either public or private;
- ~~7. within 500 feet of any halfway house, group home or correctional facility; or~~
- ~~8. within 500 feet of another retail marijuana establishment or a medical marijuana business.~~

(b) The distances set forth in Subsection (a) above shall be computed by direct measurement in a straight line from the nearest property line of the lot used for the educational institution or school, ~~purposes stated in Subsections (a)1., (a)2., (a)3. and~~

~~(a)4., respectively,~~ to the nearest property line of the lot on which the retail marijuana establishment is proposed to be located.

(c) The locational criteria contained in Subsection (a) of this Section shall apply to all proposed changes in the location of an existing license.

(d) Any provisions of this Code concerning home occupations notwithstanding, no retail marijuana establishment shall be located in a residential zoning district.

(e) No marijuana store shall be issued a license if the proposed location, if approved, will exceed the maximum number of licensed locations permitted in the City.

(1) The maximum total combined number of medical marijuana centers and retail marijuana stores in the City shall not exceed five (5). For purposes of this paragraph, a medical marijuana center and a retail marijuana store co-located in accordance with Section 16-32-110 shall be counted as one (1) center/store. The limitations of this paragraph on the maximum total combined number of medical marijuana centers and marijuana stores shall not be applied so as to effect licenses in existence as of May 1, 2015, nor to the renewal of any such licenses.

Section 4. Section 16-32-130 of the Edgewater Municipal Code, concerning prohibited acts for retail marijuana businesses, is hereby amended to read as follows:

Sec. 16-32-130. Prohibited acts related to marijuana cultivation facilities and marijuana product manufacturing facilities.

(a) It shall be unlawful for any marijuana cultivation facility to:

(3) operate in the City, unless it operates within the licensed premises of, and under common ownership with, a marijuana store or marijuana product manufacturing facility located in the City; or

(4) sell, give, dispense or otherwise distribute marijuana except to a marijuana store or marijuana product manufacturing facility located in the City that is under the same ownership as the marijuana cultivation facility.

(b) It shall be unlawful for any marijuana product manufacturing facility to:

(3) operate in the City, unless its operates within the licensed premises of, and under common ownership with, a marijuana store located in the City; or

(4) sell, give, dispense or otherwise distribute any of the products that it manufactures except to a marijuana store located in the City that is

under the same ownership as the marijuana product manufacturing facility.

Section 5. Repeal of Ordinance 15-04, Series of 2015.

Ordinance No. 15 -04, Series 2015, establishing a moratorium on new marijuana businesses within the City, is hereby repealed and is of no further force or effect.

Section 6. 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 7. 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 8. This ordinance shall become effective five (5) days after final publication.

INTRODUCED, READ, PASSED ON FIRST READING AND ORDERED PUBLISHED this 7th day of May, 2015.

/s/ Bonnie McNulty, Mayor

ATTEST:

/s/ Elizabeth A. Hedberg, MMC
City Clerk

PASSED AND ADOPTED ON SECOND READING AND ORDERED PUBLISHED this 28th day of May, 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 2015-07 was published in full on the City website in accordance with Section 1-3-50 of the Edgewater Municipal Code on May 8, 2015. In witness whereof, I have hereunto set my hand and the seal of the City of Edgewater, this 8th day of May, 2015.

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

CERTIFICATE OF PUBLICATION

STATE OF COLORADO)
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CITY OF EDGEWATER) SS:
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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 2015-07 was published in full on the City website in accordance with Section 1-3-50 of the Edgewater Municipal Code on May 29, 2015. In witness whereof, I have hereunto set my hand and the seal of the City of Edgewater, this 29th day of May, 2015.

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

SUMMARIZED HISTORY FOR ORDINANCE NO. 2015-07

Action	Date
Workshopped	March 5, 2015
First Reading	May 7, 2015
Posted	May 8, 2015
Publication	May 8, 2015
Second Reading	May 28, 2015
Sent to Codifier	May 29, 2015
Posted	May 29, 2015
Publication	May 29, 2015
Enacted	June 3, 2015