

ORDINANCE NO. 011, 2020
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING CHAPTER 15, ARTICLE XVII OF THE CODE OF THE
CITY OF FORT COLLINS REGULATING RETAIL MARIJUANA
BUSINESSES TO CLARIFY AND ALIGN CITY CODE WITH STATE LAW

WHEREAS, Article XVII of Chapter 15 of the City Code establishes regulations for retail marijuana businesses; and

WHEREAS, since the 2019 legislative session, state laws, rules and regulations regulating retail marijuana businesses have been modified, including changing terminology and combining the Colorado Medical Marijuana Code and the Colorado Retail Marijuana Code into what is now known as the Colorado Marijuana Code; and

WHEREAS, staff recommends updating the City Code provisions governing retail marijuana businesses to include these non-substantive changes; and

WHEREAS, the Council has determined that the proposed amendments are in the best interest of the City and its citizens.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That Section 15-601 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 15-601. - Purpose.

The purpose of this Article is to implement the provisions of Title 44, Article 10, C.R.S., known as the Colorado Marijuana Code.

Section 3. That Section 15-602 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 15-602. - Incorporation of state law.

The provisions of the Colorado Marijuana Code, and any rules and regulations promulgated thereunder, are incorporated herein by reference except to the extent that more restrictive or additional regulations are set forth in this Article.

Section 4. That Section 15-603 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 15-603. - Definitions.

(a) The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section:

Applicant shall mean any person or entity, having any financial or ownership interest as set forth in the Colorado Marijuana Code, who has submitted an application for a license or renewal of a license issued pursuant to this Article. If the applicant is an entity and not a natural person, *applicant* shall include all persons who are the members, managers, officers, directors and, shareholders, of such entity.

Colorado Marijuana Code shall mean Title 44, Article 10, C.R.S., and any rules or regulations promulgated thereunder.

...

Financial interest shall mean any ownership interest as defined in the Colorado Marijuana Code.

...

Licensed premises shall mean the premises specified in an application for a license under the provisions of this Article, the Colorado Marijuana Code, and rules and regulations promulgated thereunder, that are owned or in the possession of the licensee and within which the licensee is permitted to cultivate, manufacture, distribute, sell or test retail marijuana in accordance with this Article.

...

Medical marijuana business shall mean a medical marijuana store, medical marijuana cultivation facility or medical marijuana products manufacturer, medical marijuana testing facility, a marijuana research and development licensee, or a medical marijuana business operator as defined in the Colorado Marijuana Code.

...

Owner shall mean the person or persons who have an interest in a retail marijuana business as defined in the Colorado Marijuana Code.

...

Retail marijuana business shall mean a retail marijuana store, retail marijuana cultivation facility, a retail marijuana products manufacturer, a retail marijuana testing facility, or a retail marijuana business operator as defined in the Colorado Marijuana Code.

Retail marijuana business operator shall mean a person that is not an owner of a retail marijuana business and that is licensed to provide professional operational services to a retail marijuana business for direct remuneration from such business.

Retail marijuana cultivation facility shall mean an entity licensed to cultivate, prepare and package marijuana and sell marijuana to retail marijuana stores, to marijuana products manufacturing facilities and to other marijuana cultivation facilities, but not to consumers.

Retail marijuana products manufacturing facility shall mean an entity licensed to purchase marijuana; manufacture, prepare and package marijuana products; and sell marijuana and marijuana products to other marijuana product manufacturing facilities and to retail marijuana stores, but not to consumers.

Retail marijuana store shall mean an entity licensed to purchase marijuana from marijuana cultivation facilities and marijuana and marijuana products from marijuana products manufacturing facilities and to sell marijuana and marijuana products to consumers.

...

(b) In addition to the definitions contained in Subsection (a) above, other terms used in this Article shall have the meaning ascribed to them in Article XVIII, Section 16 of the Colorado Constitution or the Colorado Marijuana Code, and such definitions are hereby incorporated into this Article by this reference.

Section 5. That Section 15-606 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 15-606. - Functions.

...

(b) The Authority shall consider applications for licensure, new business premises, transfer of ownership, change of location, change of ownership, change of corporate structure, premises modification and any other appropriate application.

(c) The Authority shall have all the powers of a Local Licensing Authority as set forth in the Colorado Marijuana Code.

...

(g) Notwithstanding the provisions of Section 16 of Article XVIII of the Colorado Constitution, the Authority shall not act upon any application for local licensing of a retail marijuana business in circumstances where the State has failed to issue the applicant an annual license within ninety (90) days after its receipt of such application.

Section 6. That Section 15-607 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 15-607. - License requirements.

No person may operate a retail marijuana business in the City without having obtained a license under the provisions of this Article. No person shall be a retail marijuana business operator without having obtained a license under the provisions of this Article.

Section 7. That Section 15-608 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 15-608. - Retail marijuana stores.

- (a) Only a licensed medical marijuana store in good standing with state and local licensing authorities may be licensed as, or may operate, a retail marijuana store in the City.
- (b) A retail marijuana store and medical marijuana store held by the same licensee shall be contiguous, located within the same building and under the exclusive control of the licensee.
- (c) All retail marijuana stores shall prohibit the entrance of persons under the age of twenty-one (21) to the licensed premises, including that portion of the premises that is licensed as a medical marijuana store.

Section 8. That Section 15-609 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 15-609. - Retail marijuana cultivation facilities.

- (a) Only a licensed retail marijuana store or retail marijuana products manufacturer may be licensed as, or may operate, a retail marijuana cultivation facility in the City.

...

- (c) Retail marijuana cultivation facilities may sell or otherwise distribute retail marijuana only to licensed retail marijuana stores or licensed retail marijuana products manufacturers that are in good standing with no pending violation(s) or current suspended sentence as a result of a violation(s) of Article XVII, Chapter 15 of the City Code, or other applicable local regulatory provisions; Article XVIII, Section 16 of the Colorado Constitution; the Colorado Marijuana Code; and the Colorado Marijuana Enforcement Division Rules and Regulations.

Section 9. That Section 15-610 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 15-610. - Retail marijuana products manufacturers.

Any person who meets the requirements of this Division may be licensed as, and may operate, a retail marijuana products manufacturing facility in the City.

Section 10. That Section 15-611 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 15-611. - Retail marijuana testing facilities.

Any person who meets the requirements of this Division and is not an owner of a retail marijuana cultivation facility, a retail marijuana products manufacturer, a retail marijuana store or a medical marijuana business may be licensed as, and may operate, a retail marijuana testing facility in the City.

Section 11. That Section 15-611.2 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 15-611.2. - Retail marijuana business operator license.

Any person who is not an owner of a retail marijuana business, and who meets the requirements of this Division, may be licensed as a retail marijuana business operator.

Section 12. That Section 15-612 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 15-612. - Requirements of application for license; payment of application fees.

(a) Any person seeking a license for any retail marijuana business under the provisions of the Colorado Marijuana Code and this Article shall submit a completed State application to the Authority. At the time of application, each applicant shall pay a nonrefundable fee to defray the costs incurred by the City for background investigations and inspection of the proposed premises, as well as any other costs associated with the processing of the application.

(b) The applicant shall also provide any information that is deemed necessary by the Authority in connection with the investigation and review of the application regarding the applicant, and any person having a ten (10) percent or greater financial interest in the retail marijuana business that is the subject of the application or, if the applicant is an entity, having a financial interest in the entity.

Section 13. That Section 15-613 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 15-613. - Denial of application and consequences.

(a) The Authority shall deny any application that does not meet the requirements of the Colorado Marijuana Code, the rules and regulations promulgated thereunder or the provisions of this Article.

...

Section 14. That Section 15-614 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 15-614. - Persons prohibited as licensees.

No license shall be issued to, held by or renewed by any of the following:

- (1) Any person who is, at the time of application for a retail marijuana store, not currently licensed to operate a medical marijuana center and in good standing under both the Colorado
- (2) Any person prohibited pursuant to Section 44-10-306, C.R.S;
- (3) Any natural person who has been released within the ten (10) years immediately preceding the application from any form of incarceration or court-ordered supervision, including a deferred sentence resulting from a conviction of any felony or any crime which under the laws of the State would be a felony; or any crime of which fraud or intent to defraud was an element, whether in the State or elsewhere;
- (4) Any persons with a ten (10) percent or greater financial interest in said entity that has been convicted of any of the offenses set forth in Paragraphs (2) and (3) above;
- (5) Any person whose criminal history renders him or her ineligible under Paragraphs (2) and (3) above, or who employs a person at a retail marijuana business who has a criminal history that renders said person ineligible;
- (6) Any applicant who has made a false, misleading or fraudulent statement, or who has intentionally omitted pertinent information, on his or her application for a license;
- (7) Any applicant whose license for a medical or retail marijuana business in this State or any other state has been revoked.

Section 15. That Section 15-615 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 15-615. - Location criteria.

...

- (c) The location criteria contained in Subsection (a) above shall not apply to a retail marijuana store that will be located on premises for which a medical marijuana store license has been issued as of March 28, 2014, or for which a medical marijuana store license application was pending as of March 28, 2014.
- (d) A previously licensed medical marijuana store that seeks to change locations and that applies for and receives a retail marijuana store license is subject to the location requirements in Subsection (a) above.

Section 16. That Section 15-617 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 15-617. - Signage and advertising.

...

(b) It shall be unlawful for any licensee to post, or allow to be posted, signs or other advertising materials identifying premises that cultivate retail marijuana or manufacture retail marijuana products as being associated with a marijuana business.

Section 17. That Section 15-620 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 15-620. - Prohibited acts.

...

(c) It shall be unlawful for any licensee, or for any agent, manager or employee thereof, to:

(1) sell, give, or otherwise distribute retail marijuana or retail marijuana products from any location other than the licensed premises;

...

(d) It shall be unlawful for retail marijuana businesses to distribute marijuana or marijuana-infused products to a consumer free of charge.

(e) It shall be unlawful for any licensee to fail to designate areas of ingress and egress for limited-access areas or to post signs in conspicuous locations as required by the Colorado Marijuana Code.

(f) It shall be unlawful for any licensee to sell marijuana or marijuana products at a licensed retail marijuana store at any time other than between the hours of 8:00 a.m. and 8:00 p.m. daily.

Section 18. That Section 15-621 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 15-621. - Visibility of activities; control of emissions.

(a) All activities of retail marijuana businesses, including, without limitation, cultivating, growing, processing, displaying, manufacturing, selling and storage, shall be conducted indoors.

...

(c) No marijuana cultivation activity shall result in the emission of any gas, vapors, odors, smoke, dust, heat or glare that is noticeable at or beyond the property line of the establishment at which the cultivation occurs. Sufficient measures and means of preventing the escape of such substances from a retail marijuana business must be provided at all times. In the event that any gas, vapors, odors, smoke, dust, heat or glare or other substances exit a retail marijuana business,

the owner of the subject premises and the licensee shall be jointly and severally liable for such conditions and shall be responsible for immediate, full clean-up and correction of such condition. The licensee shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations.

Section 19. That Section 15-623 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 15-623. - Nonrenewal, suspension or revocation of license.

(a) The Authority may, after notice and hearing, pursuant to this Article, suspend, revoke or refuse to renew a license for any of the following reasons:

...

(3) the retail marijuana business has been abandoned or operated in a manner that adversely affects the public health, safety or welfare.

(b) Evidence to support a finding under Subsection (a) of this Section may include, without limitation, a continuing pattern of disorderly conduct, a continuing pattern of drug-related criminal conduct within the premises of the retail marijuana business or in the immediate area surrounding such business, a continuing pattern of criminal conduct directly related to or arising from the operation of the retail marijuana business, or an ongoing nuisance condition emanating from or caused by the retail marijuana business.

Section 20. That Section 15-624 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 15-624. - Violations and penalties.

In addition to the possible denial, suspension, revocation or nonrenewal of a license under the provisions of this Article, any person, including, but not limited to, any licensee, manager or employee of a retail marijuana business, or any customer of such business, who violates any of the provisions of this Article, shall be guilty of a misdemeanor punishable in accordance with § 1-15 of this Code.

Section 21. That Section 15-626 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 15-626. - Other laws remain applicable.

(a) To the extent the State adopts in the future any additional or stricter law or regulation governing the sale or distribution of retail marijuana, the additional or stricter regulation shall control the establishment or operation of any retail marijuana business in the City. Compliance

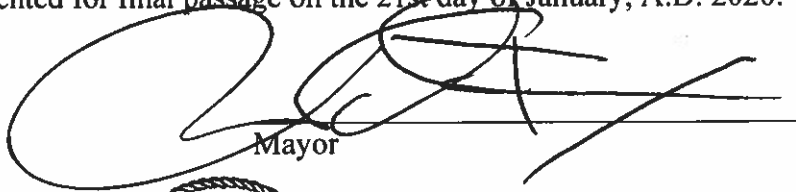
with any applicable state law or regulation shall be deemed an additional requirement for issuance or denial of any license under this Article, and noncompliance with any applicable state law or regulation shall be grounds for revocation or suspension of any license issued hereunder.

...

(c) If the State prohibits the sale or other distribution of marijuana through retail marijuana businesses, any license issued hereunder shall be deemed immediately revoked by operation of law, with no ground for appeal or other redress on behalf of the licensee.

...

Introduced, considered favorably on first reading, and ordered published this 7th day of January, A.D. 2020, and to be presented for final passage on the 21st day of January, A.D. 2020.

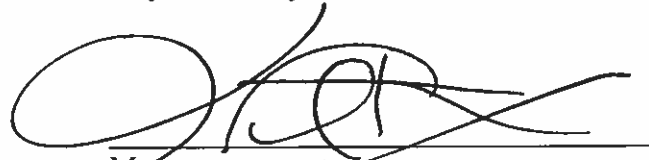

Mayor

ATTEST:


City Clerk



Passed and adopted on final reading on the 21st day of January, A.D. 2020.


Mayor

ATTEST:


City Clerk

