

ORDINANCE NO. 2540

INTRODUCED BY: ALLEN-THOMAS, CHACON, DOUGLAS, FORD, HURST,  
HUSEMAN, KIM, MADERA, NOBLE

AN ORDINANCE AMENDING SECTIONS 21-5200, 21-5249, AND 21-11200 OF THE LAND DEVELOPMENT CODE PERTAINING TO THE REGULATION OF MEDICAL AND RECREATIONAL MARIJUANA BUSINESSES

WHEREAS, in 2015, the City Council enacted Ordinance No. 2048, which established regulations and definitions prescribing the manner in which marijuana businesses within the City of Commerce City (“City”) are zoned and permitted to protect the health, safety, and welfare of the residents, businesses, and property in the city;

WHEREAS, the City Council desires to update its regulations relating to the definitions and land use regulations in the Land Development Code for recreational and medical marijuana; and

WHEREAS, sections 14 and 16 of article XVIII of the Colorado Constitution and title 44, article 10 of the Colorado Revised Statutes afford to localities the option of licensing marijuana businesses within their respective jurisdictions. In accordance with the constitutional and statutory authority, as well as the City’s plenary authority as a home rule city to adopt and enforce ordinances under its police power to protect the health, safety, and general welfare of the City’s current and future inhabitants the city seeks to adopt and enact this proposed ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COMMERCE CITY, COLORADO, AS FOLLOWS:

**SECTION 1. Findings.** The recitals to this ordinance are incorporated as findings of the City Council. This ordinance is found to be necessary for the preservation of the public health, safety, and welfare and is found to be in the public interest.

**SECTION 2. Amendment of Chapter 21.** Chapter 21 of the Commerce City Revised Municipal Code (Land Development Code), specifically Sections 21-5200, 21-5249, and 21-11200 are hereby amended as shown in Exhibit A, with the changes reflected in Exhibit B.

**SECTION 3. Inconsistencies; Conflicts.** Except as specifically modified herein, the provisions of the Commerce City Revised Municipal Code shall remain unchanged and in full force and effect. All ordinances and provisions of the Commerce City Revised Municipal Code, or portions thereof, inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

**SECTION 4. Effect on Existing Licenses and Applications; Savings.** Nothing in this ordinance shall be construed to modify the current definition, setback requirements, or allowed uses of marijuana premises. All applications for new licenses, and other proceedings before the Marijuana Licensing Authority shall be subject to this ordinance; provided, that neither the

adoption of this ordinance nor the repeal hereby of any other ordinance shall in any manner affect the prosecution, judgment, and penalties for violations of such ordinances, which violations were committed prior to the effective date of this ordinance, nor be construed as a waiver of any license or penalty or the penal provisions applicable to any violation thereof.

**SECTION 5. Effective Date.** This ordinance shall be effective five (5) days after both final posting and publication have been accomplished as provided in section 5.6 of the City Charter.

INTRODUCED, PASSED ON FIRST READING AND PUBLIC NOTICE ORDERED THIS 7TH DAY OF AUGUST, 2023.

PASSED ON SECOND AND FINAL READING AND PUBLIC NOTICE ORDERED THIS 11TH DAY OF SEPTEMBER, 2023.

CITY OF COMMERCE CITY, COLORADO

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Benjamin A. Huseman, Mayor

ATTEST

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Dylan A. Gibson, City Clerk

EXHIBIT A TO ORDINANCE 2540  
(Clean Version)

\*\*\*BEGIN\*\*\*

**COMMERCE CITY COLORADO LAND DEVELOPMENT CODE**  
**ARTICLE V – USES AND ACCESSORY STRUCTURES**  
**DIVISION 2 – PRINCIPAL USES**  
**SUBDIVISION A – GENERAL PROVISIONS**  
**Sec. 21-5200 – Land Use Table.**

Use Classification	Specific Use Type	NAICS Code	R-1	R-2	R-3	R-4	MHP	C-1	C-2	C-3	MU-1	I-1	I-1S	I-2	I-3	AG	PUBLIC	Additional Regulations	
<b>INDUSTRIAL USES</b>																			
Marijuana Uses	Marijuana Store									R		R	R	R	R			21-5249	
	Marijuana product manufacturer											R	R	R	R			21-5249	
	Marijuana cultivation facility											R	R	R	R			21-5249	
	Primary caregiver											R	R	R	R			21-5249	
	Marijuana cultivation facility											R	R	R	R			21-5249	
	Marijuana testing facility												R	R	R	R			21-5249
	Medical marijuana transportation facility												R	R	R	R			21-5249
	Marijuana off-site storage facility												R	R	R	R			21-5249
	Marijuana research and development facility												R	R	R	R			21-5249
	All other marijuana businesses												R	R	R	R			21-5249

EXHIBIT A TO ORDINANCE 2540  
(Clean Version)

**SUBDIVISION B – SUPPLEMENTAL REGULATIONS FOR PARTICULAR USES**  
**Sec. 21-5249 – Marijuana Businesses, Primary Caregivers, and Marijuana Activities**

(1) Location Restrictions.

(a) General Restrictions. No marijuana business shall be located within:

- (i). 1,000 feet of any educational institution or school, either public or private; excluding institutions of post-secondary education;
- (ii). 1,000 feet of any state licensed child care facility;
- (iii). 1,000 feet of any alcohol or drug rehabilitation facility;
- (iv). 1,000 feet of any group home;
- (v). 1,000 feet of any halfway house or correctional facility;
- (vi). 1,000 feet of any city-owned public park or city-owned recreation center provided, however, that for purposes of this section, the term park shall exclude any trail; or
- (vii). 1,000 feet of any other marijuana business of any type.

(b) Restriction Related to Residential Uses.

- (i). Marijuana stores shall not be located within 2000 feet of any property in the city that is zoned: mixed-use and has a residential entitlement, residential, or agricultural.
- (ii). All other marijuana businesses and primary caregivers shall not be located within 1,000 feet of any property in the city that is zoned: mixed-use and has a residential entitlement, residential, or agricultural.

(c) No retail or medical marijuana store shall be located within 2,000 feet of any other retail or medical marijuana store.

(d) Applicability. The location restrictions contained in this section shall be applicable at the time of initial licensing. For purposes of this section, an established and licensed marijuana business or primary caregiver may continue operations without being deemed to be in violation of this section if one of the above referenced uses locates within an applicable buffer zone. For purposes of this code, the business or caregiver shall be deemed to be a pre-existing use. The business or primary caregiver who continues to operate does so at its own risk, however, and shall be subject to the enforcement of any applicable non-city provisions relating to location.

EXHIBIT A TO ORDINANCE 2540  
(Clean Version)

(2) Advertising, Signage, and Design

- (a) Advertising Generally. In addition to this code, primary caregivers and all marijuana businesses, regardless of whether they are medical or retail in nature, shall comply with the provisions contained in Part 2 of Article 10 of Title 44 of the Colorado Revised Statutes, as amended.
- (b) Sign Approval Required. No permanent or temporary sign associated with a marijuana-related business may be installed or located within the city until review and approved by the city via a temporary or permanent sign permit.
- (c) Color Restrictions. Colors for both signage and the overall building that offer low reflectance in subtle, neutral, or natural tones are required over the use of high-intensity or reflective colors that draw attention to the business.

(3) Prohibitions. The following activities are prohibited anywhere within the city:

- (a) Storage of marijuana or marijuana-related products off the site of the license premises without a valid off-site storage permit;
- (b) Marijuana hospitality and retail hospitality;
- (c) Marijuana membership clubs;
- (d) Marijuana businesses as home occupations;
- (e) Marijuana businesses within a mixed-use development that includes a residence; and
- (f) Marijuana vapor lounges.

**ARTICLE XI – Measurements and Definitions**

**DIVISION 2 – DEFINITIONS**

**Sec. 21-11200 – Definitions**

**\*\* (to be inserted numerically and renumbered as appropriate.  
“...” designates no changes) \*\***

...

(272) *Marijuana Business* shall mean any medical marijuana business and any retail marijuana business.

...

(281) *Medical Marijuana Business* shall have the meaning ascribed to it by state law.

(282) *Medical Marijuana Store* shall have the meaning ascribed to it in state law.

EXHIBIT A TO ORDINANCE 2540  
(Clean Version)

(283) *Medical Marijuana Product Manufacturer* shall have the meaning ascribed to it by state law.

**\*\*\*END\*\*\***

EXHIBIT B TO ORDINANCE 2540

(Blue italics indicates additions; red strikethrough indicates removals)

\*\*\*BEGIN\*\*\*

**COMMERCE CITY COLORADO LAND DEVELOPMENT CODE  
 ARTICLE V – USES AND ACCESSORY STRUCTURES  
 DIVISION 2 – PRINCIPAL USES  
 SUBDIVISION A – GENERAL PROVISIONS  
 Sec. 21-5200 – Land Use Table.**

<i>Use Classification</i>	<i>Specific Use Type</i>	<i>NAICS Code</i>	<i>R - 1</i>	<i>R - 2</i>	<i>R - 3</i>	<i>R - 4</i>	<i>MHP</i>	<i>C - 1</i>	<i>C - 2</i>	<i>C - 3</i>	<i>MU - 1</i>	<i>I - 1</i>	<i>I - 1S</i>	<i>I - 2</i>	<i>I - 3</i>	<i>AG</i>	<i>P u b l i c</i>	<i>Additional Regulations</i>
<b>INDUSTRIAL USES</b>																		
<i>Marijuana Uses</i>	<del>Medical Marijuana Center Store</del>										<i>R</i>		<i>R</i>	<i>R</i>	<i>R</i>			<i>21-5249</i>
	<del>Medical Marijuana infused product manufacturer</del>												<i>R</i>	<i>R</i>	<i>R</i>	<i>R</i>		<i>21-5249</i>
	<del>Optional premises Marijuana cultivation operation facility</del>												<i>R</i>	<i>R</i>	<i>R</i>	<i>R</i>		<i>21-5249</i>
	Primary caregiver												<i>R</i>	<i>R</i>	<i>R</i>	<i>R</i>		<i>21-5249</i>
	<del>Retail Marijuana cultivation facility</del>												<i>R</i>	<i>R</i>	<i>R</i>	<i>R</i>		<i>21-5249</i>
	<del>Retail marijuana cultivation facility</del>												<del><i>R</i></del>	<del><i>R</i></del>	<del><i>R</i></del>	<del><i>R</i></del>		<del><i>21-5249</i></del>
	<del>Retail product manufacturing facility</del>												<del><i>R</i></del>	<del><i>R</i></del>	<del><i>R</i></del>	<del><i>R</i></del>		<del><i>21-5249</i></del>
	<del>Retail Marijuana Store</del>										<del><i>R</i></del>		<del><i>R</i></del>	<del><i>R</i></del>	<del><i>R</i></del>	<del><i>R</i></del>		<del><i>21-5249</i></del>

**EXHIBIT B TO ORDINANCE 2540**

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<i>Retail Marijuana testing facility</i>														<i>R</i>	<i>R</i>	<i>R</i>	<i>R</i>			<i>21-5249</i>
<i>Medical marijuana transportation facility</i>														<i>R</i>	<i>R</i>	<i>R</i>	<i>R</i>			<i>21-5249</i>
<i>Marijuana off-site storage facility</i>														<i>R</i>	<i>R</i>	<i>R</i>	<i>R</i>			<i>21-5249</i>
<i>Marijuana research and development facility</i>														<i>R</i>	<i>R</i>	<i>R</i>	<i>R</i>			<i>21-5249</i>
<i>All other marijuana businesses</i>														<i>R</i>	<i>R</i>	<i>R</i>	<i>R</i>			<i>21-5249</i>

**SUBDIVISION B – SUPPLEMENTAL REGULATIONS FOR PARTICULAR USES**

**Sec. 21-5249 – Marijuana Businesses, Primary Caregivers, and Marijuana Activities**

**(4) Location Restrictions.**

(a) *General Restrictions. No marijuana business shall be located within:*

- (i). *1,000 feet of any educational institution or school, either public or private; excluding institutions of post-secondary education;*
- (ii). *1,000 feet of any state licensed child care facility;*
- (iii). *1,000 feet of any alcohol or drug rehabilitation facility;*
- (iv). *1,000 feet of any group home;*
- (v). *1,000 feet of any halfway house or correctional facility; ~~or~~*
- (vi). *1,000 feet of any city-owned public park or city-owned recreation center provided, however, that for purposes of this section, the term park shall exclude any trail; or*
- (vii). *1,000 feet of any other marijuana business of any type.*

(b) *Restriction Related to Residential Uses.*



## EXHIBIT B TO ORDINANCE 2540

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- (i). *Marijuana stores shall not be located within ~~500~~ 2000 feet of any property in the city that is zoned: mixed-use and has a residential entitlement, residential, or agricultural.*
- (ii). *All other marijuana businesses and primary caregivers shall not be located within 1,000 feet of any property in the city that is zoned: mixed-use and has a residential entitlement, residential, or agricultural.*
- (c) *No retail or medical marijuana store shall be located within 2,000 feet of any other retail or medical marijuana store.*
- (d) *Applicability. The location restrictions contained in this section shall be applicable at the time of initial licensing. For purposes of this section, an established and licensed marijuana business or primary caregiver may continue operations without being deemed to be in violation of this section if one of the above referenced uses locates within an applicable buffer zone. For purposes of this code, the business or caregiver shall be deemed to be a pre-existing use. The business or primary caregiver who continues to operate does so at its own risk, however, and shall be subject to the enforcement of any applicable non-city provisions relating to location.*

### (5) Advertising, Signage, and Design

- (a) *Advertising Generally. In addition to this code, primary caregivers and all marijuana businesses, regardless of whether they are medical or retail in nature, shall comply with the provisions contained in Part 2 of Article 10 of Title 44 of the Colorado Revised Statutes, as amended.*
  - (b) *Sign Approval Required. No permanent or temporary sign associated with a marijuana-related business may be installed or located within the city until review and approved by the city via a temporary or permanent sign permit.*
  - (c) *Color Restrictions. Colors for both signage and the overall building that offer low reflectance in subtle, neutral, or natural tones are required over the use of high-intensity or reflective colors that draw attention to the business.*
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- (a) *Storage of marijuana or marijuana-related products off the site of the license premises without a valid off-site storage permit;*
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  - (d) *Marijuana businesses as home occupations;*

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*(e) Marijuana businesses within a mixed-use development that includes a residence; and*

*(f) Marijuana vapor lounges.*

**ARTICLE XI – Measurements and Definitions**

**DIVISION 2 – DEFINITIONS**

**Sec. 21-11200 – Definitions**

**\*\**(to be inserted numerically and renumbered as appropriate.***

***“...” designates no changes)\*\****

...

*(272) Marijuana Business* ~~means any medical marijuana center, optional premises cultivation operation, medical marijuana infused products manufacturer, retail marijuana store, retail marijuana cultivation facility, retail marijuana products manufacturer and retail marijuana testing facility~~ shall mean any medical marijuana business and any retail marijuana business.

...

*(281) Medical Marijuana Business* ~~shall mean a medical marijuana center, optional premises cultivation operation, or medical marijuana infused products manufacturer as defined in the Colorado Medical Marijuana Code~~ shall have the meaning ascribed to it by state law.

*(282) Medical Marijuana ~~Center~~ Store* shall have the meaning ascribed to it in state law.

*(283) Medical Marijuana ~~Infused~~ Product Manufacturer* shall have the meaning ascribed to it by state law.

...

~~*(387) Retail Marijuana Code* means title 12, article 43.4 of the Colorado Revised Statutes, as amended from time to time, and any rules or regulations promulgated thereunder.~~

**\*\*\*END\*\*\***