

ORDINANCE NO. 2137

INTRODUCED BY: \_\_\_\_\_  
\_\_\_\_\_

**AN ORDINANCE AMENDING DIVISION 2 OF ARTICLE II OF CHAPTER 8 OF THE COMMERCE CITY REVISED MUNICIPAL CODE REGARDING THE LICENSURE OF MARIJUANA BUSINESSES TO ESTABLISH DISTANCE REQUIREMENTS FOR THE LICENSING OF RETAIL MARIJUANA STORES AND MEDICAL MARIJUANA CENTERS**

WHEREAS, the City of Commerce City (“City”) is a home rule municipal corporation created and organized pursuant to Article 20 of the Colorado Constitution and the Charter of the City of Commerce City;

WHEREAS, by virtue of Article 20 of the Colorado Constitution, and as further authorized by state law, including, but not limited to, Sections 31-15-401 and 31-23-301 of the Colorado Revised Statutes, the City of Commerce City has broad authority to exercise its police powers to promote and protect the health, safety, and welfare of the community and its citizens;

WHEREAS, the Colorado Constitution allows for the cultivation, production, manufacture, and sale of medical and retail marijuana by licensed establishments;

WHEREAS, the City Council for the City of Commerce City has recognized that businesses involving the distribution of marijuana can have a negative impact on the health, safety, and welfare of a community as well as its resources;

WHEREAS, the City Council has declared that the operation of a marijuana business in the City is a revocable privilege and not a right, and the City possesses the power and authority to impose restrictions on the submission, processing, and approval of certain applications;

WHEREAS, the City’s regulations of marijuana businesses are intended, in part, to prevent the proliferation of marijuana businesses in the City and prevent the development of marijuana businesses in certain areas of the City for the benefit of the public health, safety, and welfare;

WHEREAS, the potential for the proliferation of marijuana businesses within the City has increased as the marijuana industry has developed in Colorado, especially as other municipalities in the region have enacted caps or moratoria on new marijuana businesses;

WHEREAS, the rezoning, subdivision, and other modifications of land may lead to the development of marijuana businesses at locations that were not intended by the City to be eligible for such use, including development of marijuana businesses within close proximity to each other and to other properties, including City parks, schools, day care centers, drug rehabilitation facilities, and other public facilities;

WHEREAS, the City Council has determined that a separation requirement between retail marijuana stores and medical marijuana centers will preserve the diversity of commercial products and services and the diversity of land uses in the City and will prevent the undue concentration and oversaturation of certain marijuana businesses within certain parts of the City;

WHEREAS, the City Council has determined that a separation of 1,000 feet between marijuana businesses that distribute marijuana to the public is of critical importance, is reasonable and necessary to protect the public health, safety, and welfare, and can be imposed with adequate protection of the reasonable expectations of persons who have expended resources in the pursuit of a license to operate a retail marijuana store or medical marijuana center in the City; and

WHEREAS, the City Council has determined that the enactment of restrictions to ensure the adequate separation of marijuana businesses that distribute marijuana to the public is of critical importance and necessary to protect the public health, safety, and welfare.

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

**SECTION 1.** The recitals to this ordinance are hereby adopted by and incorporated as findings of fact of the City Council.

**SECTION 2.** Division 2 of Article II of Chapter 8 of the Commerce City Revised Municipal Code is hereby amended by adding a new Section 8-2207 entitled “Distance Requirements for Licensure of Retail Marijuana Stores and Medical Marijuana Centers” to read as follows:

**Section 8-2207. Distance Restrictions for Licensure of Retail Marijuana Stores and Medical Marijuana Centers.**

- (a) Except as provided in subsection (b), the city clerk shall not accept any application for, and the authority shall not approve, a license for a retail marijuana store or medical marijuana center to be located within 1,000 feet of any property:
  - (1) with a licensed premises for which a city license for a retail marijuana store or medical marijuana center has been issued and has not been revoked, relinquished, not renewed, or canceled for any reason; or
  - (2) with a proposed licensed premises for which a previously submitted application for a city license for a retail marijuana store or medical marijuana center was deemed complete by the city clerk, forwarded to the hearing officer, or approved with or without conditions until the final disposition of such previously submitted application.
- (b) This section shall not apply to: (1) renewal applications submitted under Section 8-2202(c); (2) applications for licensure by the city of retail marijuana stores or medical marijuana centers that the city clerk has deemed to be complete in accordance with Section 8-2202 as of the effective date of this section; or (3) to applications for licensure by the city of retail marijuana stores or medical marijuana centers at the same business premises for which the same class of

license was previously issued but for which a new license is required a result of a change in ownership, structure, investors, or financing, or other similar event relating to the sale or transfer of a business that requires the submission of an application for a new license.

- (c) All measurements under this section shall be measured in a direct line between the nearest points on the property lines of each property on which the licensed premises are located.
- (d) For purposes of this section, a marijuana store and medical marijuana center that are immediately adjacent and virtually-separated and owned by the same licensee shall be treated as one licensed premises.

**SECTION 3.** If any section, paragraph, sentence, clause, or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect, impair, or invalidate the remaining portions of this ordinance.

**SECTION 4.** All other ordinances or portions thereof of the City and all provisions of the Commerce City Revised Municipal Code that are inconsistent or in conflict with this ordinance or any portion thereof are, to the extent of such inconsistency or conflict, hereby superseded by this ordinance.

**SECTION 5.** Pursuant to Section 5.3(g) of the Charter of the City of Commerce City, this ordinance shall be effective 5 days after both final posting and publication of this ordinance have been accomplished after adoption by the City Council.

INTRODUCED, PASSED ON FIRST READING AND PUBLIC NOTICE ORDERED  
THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2017.

PASSED ON SECOND AND FINAL READING AND PUBLIC NOTICE ORDERED  
THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2017.

CITY OF COMMERCE CITY, COLORADO

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Sean Ford, Mayor

ATTEST:

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Laura J. Bauer, MMC, City Clerk