

CITY OF WHEAT RIDGE, COLORADO
INTRODUCED BY COUNCIL MEMBER STARKER
Council Bill No. 06
Ordinance No. 1551

Series 2014

**TITLE: AN ORDINANCE AMENDING CHAPTERS 26 AND 11 OF THE WHEAT
RIDGE CODE OF LAWS BY THE ADDITION OF NEW SECTION 26-639
CONCERNING MARIJUANA AND AMENDING PARAGRAPH 11-321(b)(8)
CONCERNING APPLICATIONS FOR PRIMARY CARE-GIVER LICENSES**

WHEREAS, Article XVIII Section 14 of the Colorado Constitution ("Amendment 20") authorizes and limits the use of medical marijuana for the treatment of debilitating medical conditions and provides patients and primary care-givers, as those terms are defined therein, with criminal defenses to, or exceptions from prosecution for the possession, production and use of medical marijuana; and

WHEREAS, under Amendment 20, patients may possess up to six (6) marijuana plants, with three or fewer being mature flowering plants that are producing a usable form of marijuana; and

WHEREAS, Amendment 20 also provides that a patient may possess more than six (6) plants if necessary to address the patient's debilitating medical condition; and

WHEREAS, under Amendment 20 a primary care-giver is permitted to possess as many plants as necessary to address any one of his or her patient's debilitating medical conditions; and

WHEREAS, City Council has been made aware that some patients have claimed that they need nearly eighty (80) marijuana plants to address their debilitating medical conditions; and

WHEREAS, under the provisions in Article XVIII Section 16 of the Colorado Constitution ("Amendment 64"), persons over twenty-one years of age are authorized to possess, grow, process, or transport no more than six (6) marijuana plants with three or fewer being mature, flowering plants so long as such activity takes place in an enclosed, locked space, is not conducted openly or publicly, and is not made available for sale; and

WHEREAS, City Council has learned that the cultivation, processing, growing and possession activities for patients, primary care-givers and adults as described in Amendment 20 and Amendment 64 are not highly regulated under state law; and

WHEREAS, if such activity is not otherwise regulated and limited within the City it could alter the character of the City's residential neighborhoods and present safety

risks, affecting the health, safety, order, comfort, convenience and general welfare of the residents of the City; and

WHEREAS, City Council desires to regulate marijuana cultivation, processing and growing activities within residential dwelling units.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WHEAT RIDGE, COLORADO:

Section 1. Chapter 26 of the Wheat Ridge Code of Laws is hereby amended by the addition of a new section 26-639, to read in its entirety as follows:

Sec. 26-639. Marijuana

- A. As used in this section, "marijuana" means all parts of the plant of the genus cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or its resin, including marijuana concentrate but shall not include industrial hemp, the fiber produced from the stalks, oil or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product whether for medicinal or non-medicinal (recreational) purposes.

- B. Cultivation, drying, processing and manufacture of marijuana and marijuana-infused products is permitted as an accessory use to any residential dwelling; provided, however, that the following requirements are met:
 - 1. Such use shall be conducted only within an enclosed locked space within the dwelling and may not be conducted within any accessory structure.

 - 2. Such use shall be incidental and secondary to the use of the dwelling for dwelling purposes and shall not change the character thereof.

 - 3. Such use may only be conducted by a person who resides within the dwelling in which the use is occurring.

 - 4. The total area used for said purposes shall not exceed twenty-five percent (25%) of the gross floor area of the user's dwelling unit.

5. The use shall not generate traffic, noise, vibration, glare, fumes, odors or electrical interference beyond what normally occurs in any residential zone district.
6. There shall be no visible evidence from any property line that such use is occurring within the dwelling.
7. The use of compressed, flammable gas as a solvent in the extraction of THC or other cannabinoids is prohibited.
8. The installation or modification of any electrical, mechanical, plumbing or any other type of system or fixture related to the use shall comply with all applicable provisions of the City's building regulations as set forth in Chapter 5 of this Code.

C. Except as provided for in Articles XII and XIII of Chapter 11 of this code, cultivation, drying, processing, manufacture and storage of marijuana may not occur in any non-residential structure.

Section 2. Paragraph 11-321(b)(8) of the Wheat Ridge Code of Laws is hereby amended as follows:

Sec. 11-321. Application for license.

....
 (8) A statement by the applicant acknowledging that the provisions in chapter 26 of this code concerning MARIJUANA APPLY ~~home occupations~~ applies to the activities of a primary care-giver; and

Section 3. Severability, Conflicting Ordinances Repealed. If any section, subsection or clause of this Ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected thereby. All other ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

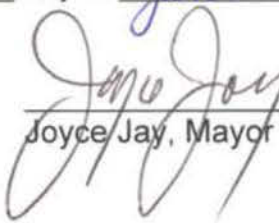
Section 4. Effective Date. This Ordinance shall take effect upon adoption and signature of the Mayor, as provided by Section 5.11 of the Charter.

INTRODUCED, READ, AND ADOPTED on first reading by a vote of 6 to 1 on this 9th day of June , 2014, ordered published in full in a newspaper of general circulation in the City of Wheat Ridge, and Public Hearing and consideration on final passage set for June 23 , 2014, at 7:00 p.m., in the Council Chambers, 7500 West 29th Avenue, Wheat Ridge, Colorado.

READ, ADOPTED AND ORDERED PUBLISHED on second and final reading by a vote of 8 to 0, this 23rd day of June, 2014.


SIGNED by the Mayor on this 23rd day of June, 2014.






Joyce Jay, Mayor

ATTEST:



Janelle Shaver, City Clerk

Approved as to Form



Gerald E. Dahl, City Attorney

First Publication: June 12, 2014
Second Publication: June 26, 2014
Wheat Ridge Transcript
Effective Date: June 23, 2014