

ORDINANCE NO. 026, 2010
OF THE COUNCIL OF THE CITY OF FORT COLLINS
MAKING AMENDMENTS TO THE CITY LAND USE CODE
RELATING TO MEDICAL MARIJUANA

WHEREAS, on March 18, 1997, by its adoption of Ordinance No. 051, 1997, the City Council enacted the Fort Collins Land Use Code (the "Land Use Code"); and

WHEREAS, City staff and the Planning and Zoning Board have reviewed the Land Use Code and identified and explored various issues pertaining to the distribution of medical marijuana in the City as they relate to the Land Use Code, and have made recommendations to the Council regarding such issues; and

WHEREAS, the City Council has determined that the recommended Land Use Code amendments relating to medical marijuana dispensaries and related facilities 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 that the Land Use Code is hereby amended as follows:

Section 1. That Section 1.3.4(A) of the Land Use Code is hereby amended to read as follows:

1.3.4 Addition of Permitted Uses

- (A) ***Required Findings.*** In conjunction with an application for approval of an overall development plan, a project development plan, a final plan or any amendment of the foregoing, and upon the petition of the applicant or on the Director's own initiative, the Director (or the Planning and Zoning Board as specifically authorized in subparagraphs (6) and (7) below) may add to the uses specified in a particular zone district any other similar use which conforms to all of the following conditions:
- (1) Such use is appropriate in the zone district to which it is added;
 - (2) Such use conforms to the basic characteristics of the zone district and the other permitted uses in the zone district to which it is added;
 - (3) Such use does not create any more offensive noise, vibration, dust, heat, smoke, odor, glare or other objectionable influences or any more traffic hazards, traffic generation or attraction, adverse environmental impacts, adverse impacts on public or quasi-public facilities, utilities or services, adverse effect on public health, safety, morals or aesthetics, or other adverse impacts of development, than the amount normally resulting from the other permitted uses listed in the zone district to which it is added;

- (4) Such use is compatible with the other listed permitted uses in the zone district to which it is added;
- (5) Such use is not a medical marijuana dispensary or a medical marijuana cultivation facility.
- (6) Such use is not specifically listed by name as a prohibited use in the zone district to which it is added, or if such use is prohibited, the proposed use is specific to the proposed site, is not considered for a text amendment under paragraph (B) below, and is specifically found by the Planning and Zoning Board to not be detrimental to the public good and to be in compliance with the requirements and criteria contained in Section 3.5.1;
- (7) Such use is not specifically listed as a "Permitted Use" in Article 4 and the proposed use is specific to the proposed site, is not considered for a text amendment under paragraph (B) below, and is specifically found by the Planning and Zoning Board to not be detrimental to the public good and to be in compliance with the requirements and criteria contained in Section 3.5.1. (See Section 2.9 for the procedures for text amendments.)

Section 2. That Section 3.8.3 (10) of the Land Use Code is hereby amended by the addition of a new subparagraph (h) which reads in its entirety as follows:

(10) A home occupation shall not be interpreted to include the following:

...

- (h) medical marijuana businesses ("MMBs"), as defined in Section 15-451 of the City Code, except that those MMBs that were issued a home occupation license by the City prior to December 11, 2009, may continue to operate as an office use for two (2) years from the date of issuance of such license; provided that no medical marijuana in any form is kept on the premises of such business and there is no cultivation of marijuana plants on such premises upon the expiration of ten (10) calendar days after the date that any of the following events occurs: (i) the owner of the MMB fails to apply, on or before June 30, 2010, for a MMB license as required by Section 15-452 of the City Code and Section 4 of Ordinance No. 025, 2010; (ii) such an application is timely filed and is denied by the City; or (iii) such an application is timely filed and a provisional MMB license is issued by the City pursuant to Section 7 of Ordinance No. 025, 2010.

Section 3. That Section 3.8.3(11) of the Land Use Code is hereby amended to read as follows:

- (11) A home occupation shall be permitted only after the owner or inhabitant of the dwelling in which such occupation is conducted has obtained a home occupation license from the city. The fee for such a license shall be the fee established in the Development Review Fee Schedule, and the term of such license shall be two (2) years. At the end of such term, the license may be issued again upon the submission and review of a new application and the payment of an additional fee. If the city is conducting an investigation of a violation of this Land Use Code with respect to the particular home occupation at the time such renewal application is made, the license will not be reissued until the investigation is completed, and if necessary, all violations have been corrected. The term of the previous license shall continue during the period of investigation. The Director may revoke any home occupation license issued by the City if the holder of such license is in violation of any of the provisions contained in subsections (1) through (8) or 10(h) of this Section, provided that the holder of the license shall be entitled to the administrative review of any such revocation under the provisions contained in Chapter 2, Article VI of the City Code.

Section 4. That the table contained in Section 4.16(B)(2)(C) of the Land Use Code is hereby amended to read as follows:

<i>Land Use</i>	<i>Old City Center</i>	<i>Canyon Avenue</i>	<i>Civic Center</i>
C. COMMERCIAL/RETAIL			
...			
Medical marijuana dispensary	BDR	BDR	BDR

Section 5. That Section 4.17(B)(1) of the Land Use Code is hereby amended by the addition of a new subparagraph (f) which reads in its entirety as follows:

(f) **Commercial/Retail Uses:**

1. Medical marijuana dispensary.

Section 6. That Section 4.18(B)(1) of the Land Use Code is hereby amended by the addition of a new subparagraph (f) which reads in its entirety as follows:

(f) **Commercial/Retail Uses:**

1. Medical marijuana dispensary.

Section 7. That Section 4.19(B)(1) of the Land Use Code is hereby amended by the addition of a new subparagraph (f) which reads in its entirety as follows:

(f) **Commercial/Retail Uses:**

1. Medical marijuana dispensary.

Section 8. That Section 4.20(B)(1) of the Land Use Code is hereby amended by the addition of a new subparagraph (f) which reads in its entirety as follows:

(f) **Commercial/Retail Uses:**

1. Medical marijuana dispensary.

Section 9. That Section 4.21(B)(1) of the Land Use Code is hereby amended by the addition of a new subparagraph (f) which reads in its entirety as follows:

(f) **Commercial/Retail Uses:**

1. Medical marijuana dispensary.

Section 10. That Section 4.22(B)(1) of the Land Use Code is hereby amended by the addition of a new subparagraph (f) which reads in its entirety as follows:

(f) **Commercial/Retail Uses:**

1. Medical marijuana dispensary.

Section 11. That Section 4.28(B)(1) of the Land Use Code is hereby amended by the addition of a new subparagraph (f) which reads in its entirety as follows:

(f) **Industrial uses:**

1. Medical marijuana cultivation facility.

Section 12. That Section 5.1.2 of the Land Use Code is hereby amended by the addition of the following new definitions which read in their entirety as follows:

Medical marijuana cultivation facility or cultivation facility shall mean a building, structure or premises used for the cultivation or storage of medical marijuana that is physically separate and off-site from any medical marijuana dispensary and that is designated as part of the premises of a medical marijuana dispensary licensed pursuant to Chapter 15, Article XVI of the City Code.

Medical marijuana dispensary or dispensary shall mean a property or structure used to sell, distribute, transmit, give, dispense or otherwise provide marijuana in any manner to patients or primary caregivers pursuant to the authority contained in

Amendment 20 to the Colorado Constitution and the implementing state statutes and administrative regulations.

Introduced, considered favorably on first reading, and ordered published this 2nd day of March, A.D. 2010, and to be presented for final passage on the 16th day of March, A.D. 2010.

ATTEST:

City Clerk

Mayor

Passed and adopted on final reading on the 16th day of March, A.D. 2010.

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