

TOWN OF NEDERLAND, COLORADO

ORDINANCE NUMBER 819

**AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE
TOWN OF NEDERLAND, COLORADO, AMENDING SECS. 6-284 AND 16-32
OF THE NEDERLAND MUNICIPAL CODE TO IMPLEMENT DISTANCE
REQUIREMENTS ON CERTAIN MARIJUANA ESTABLISHMENTS AND TO
REQUIRE A SPECIAL REVIEW AND AMENDING SECS. 16-31 AND 16-32 TO
REMOVE THE FORESTRY ZONE DISTRICT**

WHEREAS, the Town of Nederland, Colorado ("Town") is a statutory municipality, duly organized and existing under the laws of the state of Colorado; and

WHEREAS, by virtue of state law, including, but not limited to, Sections 31-15-401 and 31-23-301, C.R.S., the Town has broad authority to exercise its police powers to promote and protect the health, safety, and welfare of the community and its citizens; and

WHEREAS, the Town's police powers include the power to regulate the location and use of land within the community and to license and regulate businesses; and

WHEREAS, pursuant to Article XVIII, Section 16 of the Colorado Constitution (the "Recreational Marijuana Amendment" also known as Amendment 64), the Town has the authority to regulate the use, possession, cultivation, production, and distribution of marijuana; and

WHEREAS, the Recreational Marijuana Amendment provides that the Town may adopt time, place, and manner restrictions for operating a recreational marijuana business and may also adopt regulations limiting the number of marijuana establishment operations; and

WHEREAS, in 2013, the Town adopted the Regulation of Marijuana Ordinance, Ordinance Number 720, which established a new Article XI in Chapter 6 of the Code licensing and regulating retail marijuana establishments ("Retail Marijuana Licensing Code"); and

WHEREAS, a marijuana ordinance review committee considered the question of zoning limitations on marijuana cultivation, product manufacturing and testing facilities and presented those findings at a regular meeting of the Planning Commission on February 24, 2021, and the Planning Commission recommended adoption of this Ordinance at a regular meeting on May 26, 2021; and

WHEREAS, the Board of Trustees desires to amend certain provisions of Article XI of Chapter 6 and Article II of Chapter 16 of the Nederland Municipal Code to impose location distance requirements and to require special review of marijuana cultivation facilities, marijuana product manufacturing facilities, and marijuana testing facilities; and

WHEREAS, notice of the hearing before the Board of Trustees was published in the Mountain Ear on July 15, 2021;

WHEREAS, the Board of Trustees also desires to remove the Forestry Zone District from the district categories as there are no properties zoned Forestry.

NOW THEREFORE, BE IT ORDAINED by the Board of Trustees of the Town of Nederland, Colorado, as follows:

Section 1. Amendment of Municipal Code Section 6-284. Section 6-284 is hereby amended to require that marijuana cultivation facilities, marijuana product manufacturing facilities, and marijuana testing facilities are uses permitted by special review and to establish a five hundred (500) foot distance restriction between the facilities as follows with additions showing in underline and deletions showing as strike-throughs:

Sec. 6-284. Place of operation.

- (a) No marijuana establishment shall be located at a location that does not conform to the requirements of this Section, except as provided in Subsection (h) of this Section (see Section 16-32 of this Chapter).
- (b) No retail marijuana store shall be located except within zoning areas ~~Neighborhood Commercial (NC)~~, General Commercial (GC) and Central Business District (CBD), and, with a special review use approval pursuant to Article III of Chapter 16, Neighborhood Commercial (NC).
- (c) No marijuana product manufacturing facility shall be located except with a special review use approval pursuant to Article III of Chapter 16 in zoning areas Neighborhood Commercial (NC), Central Business District (CBD), General Commercial (GC) and Industrial (I).
- (d) No marijuana testing facility shall be located except with a special review use approval pursuant to Article III of Chapter 16 in zoning areas Neighborhood Commercial (NC) as a special review use, Central Business District (CBD), General Commercial (GC) and Industrial (I).
- (e) No marijuana cultivation facility shall be located except with a special review use approval pursuant to Article III of Chapter 16 in zoning areas ~~Forestry (F)~~, Neighborhood Commercial (NC), Central Business District (CBD), General Commercial (GC) and Industrial (I).
- (f) ~~A cultivation facility may be located in the Central Business District (CBD) and the Neighborhood Commercial (NC) District as a special review use (See Section 6-32 of this Chapter).~~ In addition to the zone district restrictions imposed by Subsections (b) through (e), no marijuana cultivation facility, marijuana product manufacturing facility, or marijuana testing facility shall be located within five hundred (500) feet of any other

marijuana cultivation facility, marijuana product manufacturing facility, or marijuana testing facility. This five hundred (500) feet distance requirement does not apply if the license is held by the same owner and the licenses are operated in the same structure.

- (g) The distances described in Subsection (f) shall be computed by direct measurement in a straight line from the primary entrance of the marijuana facility to the primary entrance of the other marijuana structure.
- (gh) In addition to the zone district restrictions imposed by Subsections (b) through (fe) above, no retail marijuana store shall be located:
 - (1) Within one hundred (100) feet of a licensed child care facility;
 - (2) Within one hundred (100) feet of any educational institution or school, college or university, either public or private;
- (hi) The distances described in Subsection (gh) shall be computed by direct measurement in a straight line from the primary entrance of the structure used for child care, educational institution, ~~or school, college, or university purposes~~ to the primary entrance of the structure used for a retail marijuana store using a route of direct pedestrian access.
- (ij) Each marijuana establishment shall be operated from a permanent and fixed location. No marijuana establishment shall be permitted to operate from a moveable, mobile or transitory location.
- (jk) A person who holds both a business license pursuant to Article 43.3 of Title 12, C.R.S., and a business license pursuant to this Article may operate both licenses in the same premises provided they meet all applicable requirements of the CRMC and of this Article.
- (kl) The suitability of a location for a marijuana establishment shall be determined upon receipt of an application by certified mail. The fact that changes in the neighborhood that occur after the initial issuance of the license might render the site unsuitable for a marijuana establishment under this Section shall not be grounds to suspend, revoke or refuse to renew the license for such an establishment so long as the license for the establishment remains active.

Section 2. Amendment of Municipal Code Section 16-31. Section 16-31 is hereby amended to remove the Forestry (F) district category in paragraph (1) and to renumber paragraphs (2) through (10) as follows with additions showing in underline and deletions showing as strike-throughs:

Sec. 16-31. - District categories.

In order to implement the purposes and provisions of this Chapter, the Town hereby establishes the following zoning districts:

- (1) ~~Forestry (F). The forestry district is established to conserve forest resources, protect the environment, preserve open space and accommodate very low density residential units on lots five (5) acres in size or larger. This district may also accommodate open space oriented uses and activities such as horse stables, crop and animal production, and campgrounds and recreation as well as resource-oriented uses and activities such as mineral extraction.~~
- (12) Mountain residential (MR). The mountain residential district is established to accommodate residential and related uses on one (1) acre or larger lots. While oriented toward steep mountain topography, it may be established anywhere in the Town to maintain a low density, mountain residential character while permitting economically feasible urban services.
- (23) Low density residential (LDR). The low density residential district is established to accommodate low density residential neighborhoods with lots at least sixteen thousand (16,000) square feet in size. This district provides a combination of the large lot character of the MR district and the development economics of the MDR district.
- (34) Medium density residential (MDR). The medium density residential district is established to accommodate residential and related uses at suburban density requiring a minimum lot size of eight thousand (8,000) square feet. As is the case in the F, MR and LDR districts, the dominant form of housing to be permitted in the MDR district is single-family detached unless the appropriateness of other housing forms is demonstrated through an approved planned unit development plan.
- (45) High density residential (HDR). The high density residential district is established to accommodate residential and related uses at urban densities requiring a minimum lot size of four thousand (4,000) square feet. Again, single-family detached units are preferable in this district; however, multifamily units may be approved through the special review or planned unit development procedures of this Chapter.
- (56) Neighborhood commercial (NC). The neighborhood commercial district is established to accommodate residential and a limited range of commercial uses. Those commercial uses deemed to have significant incompatibility with existing or potential residential uses, or for which the use will cause a significant increase in traffic volume on secondary residential streets, shall not be permitted.
- (67) Central business district (CBD). The central business district is established to accommodate a limited range of commercial uses in an intensely developed

core commercial area. To this end, front and side yard setbacks are not applicable in the CBD district; however, trash and fire access shall be provided in the rear yards.

- (78) General commercial (GC). The general commercial district is established to accommodate a wide range of commercial uses including many uses deemed inappropriate in the NC and CBD districts.
- (89) Industrial (I). The industrial district is established to accommodate light industrial uses, mineral processing uses and industrial uses of a commercial nature which for aesthetic and safety reasons are deemed inappropriate in the commercial districts and mineral processing.
- (940) Public. Public areas in which public and semi-public facilities and uses are located, including, without limitation, governmental and educational uses.

Section 3. Amendment of Municipal Code Section 16-32. Section 16-31 is hereby amended to remove the Forestry (F) district category from the use group table and to require that marijuana cultivation facilities, marijuana product manufacturing facilities, and marijuana testing facilities are uses permitted by special review as follows with additions showing in underline and deletions showing as strike-throughs:

| USE GROUPS | DISTRICTS | | | | | | |
|--|----------------|-------------------------|----------------|-----------------|-----------------|---|----------------|
| | F | MR LDR MDR HDR | NC | CBD | GC | I | P ⁷ |
| <i>Agricultural Use Groups</i> | | | | | | | |
| Crop production | Y | Y | Y | N | Y | Y | R |
| Animal production | Y | R | N | N | N | N | N |
| Private home stables | R | ¹ | N | N | N | N | N |
| Public horse stables | R | N | N | N | R | N | R |
| Outdoor kennels | R | N | N | N | N | N | N |
| Fish hatchery | R | N | N | N | N | R | R |
| <i>Educational and Child Care Use Groups</i> | | | | | | | |
| In-home child care | R | R | R | N | R | N | N |
| Private, elementary and secondary schools, State-licensed group homes for the developmentally disabled, child care centers | R | R | R | N | R | N | N |
| <i>Residential Use Groups</i> | | | | | | | |
| Single-family dwelling units | Y | Y | Y | N | N | N | Y ⁸ |
| Multi-family dwelling units, up to 4 dwelling units | Y | Y | Y | N | N | N | N |
| Multi-family dwelling units, exceeding 4 dwelling units | R ³ | R ³ | R ³ | N | N | N | N |
| Mobile homes | N | ⁴ | N | N | N | N | N |
| Family care home | N | N | R | R | R | R | N |
| Accessory dwelling unit | Y | Y | Y | N | N | N | N |
| Nursing home | N | ⁴ | N | N | N | N | |
| Retirement home | N | ⁴ | N | N | N | N | N |
| Mixed Uses | N | N | R | Y ¹⁰ | Y ¹⁰ | R | N |

| <i>Commercial Use Groups</i> | | | | | | | |
|--|------------------|-----------------------------------|-----------|------------|-----------|----------|----------------------|
| USE GROUPS | DISTRICTS | | | | | | |
| | F | MR LDR MDR HDR | NC | CBD | GC | I | P⁷ |
| Club | N | N | R | Y | Y | N | N |
| Club, for profit | N | N | R | R | R | N | N |
| Enclosed retail, eating and drinking | N | N | R | Y | Y | N | N |
| Office, financial, medical, personal service establishments | N | N | Y | Y | Y | Y | N |
| Outdoor sales, eating and drinking, or other outdoor commercial activities or establishments | N | N | R | R | R | N | N |
| Hotels and motels | N | N | R | R | R | N | N |
| Campgrounds and resort cabins | R | N | N | N | N | N | R |
| Commercial uses, including but not limited to animal hospitals, enclosed kennels, car washes, cleaning and laundry plants, cold storage lockers, building material and equipment dealers, wholesaling services, construction trades | N | N | R | R | R | N | N |
| Motor vehicle sales and repair | N | N | R | N | R | R | N |
| Fuel sales and storage | N | N | N | N | R | R | N |
| Service stations | N | N | R | R | R | R | N |
| Sexually oriented businesses | N | N | N | N | N | R | N |
| <i>Industrial Use Groups</i> | | | | | | | |
| Commercial/industrial uses, including but not limited to building contractor's yards and transportation centers | N | N | N | N | R | R | N |
| Medical clinics | N | N | R | R | R | N | R |
| Small wind turbines | R | R | R | R | R | R | R |
| Warehousing and facilities for the manufacturing, fabrication, processing or assembly of products, provided that such facilities are completely enclosed; processing of minerals and ores at a rate of 100 tons per day or less, provided that noisy and/or dusty stationary equipment is enclosed | N | N | N | N | N | R | N |
| All other facilities for the manufacturing, fabrication, processing or assembly of products; processing of minerals and ores at the rate of more than 100 tons per day | N | N | N | N | N | R | N |
| Salvage yards, impound lots, saw mills and mineral extraction | R | N | N | N | R | R | N |
| Commercial/industrial uses, including but not limited to small warehouses; and storage facilities | N | N | N | N | N | Y | R |
| Research facilities | N | N | R | R | R | R | R |
| <i>Public, Quasi-Public Use Groups</i> | | | | | | | |
| Parks oriented toward lots and passive recreation | Y | Y | Y | Y | Y | Y | Y ⁵ |
| Outdoor recreational facilities, including but not limited to lighted tennis courts, playfields and stadiums | R | R | R | N | R | R | Y ⁵ |
| Elementary and secondary schools | R | R | R | N | N | N | R |
| Trade and business schools | N | N | R | N | Y | Y | R |
| Churches, chapels, temples and synagogues | R | R | R | R | R | R | N |

| | | | | | | | |
|--|------------------|-----------------------------------|-------------------|----------------|-------------------|-------------------|----------------------|
| Cemeteries | Y | R | N | N | N | N | R |
| USE GROUPS | DISTRICTS | | | | | | |
| | F | MR LDR MDR HDR | NC | CBD | GC | I | P⁷ |
| Halfway houses and community homes | R | R | R | N | N | N | N |
| State-licensed group homes for the developmentally disabled, child care centers | R | N | N | N | N | N | N |
| Hospitals and mortuaries | N | N | R | N | R | N | R |
| Municipal offices and shops | Y | Y | Y | Y | Y | Y | R |
| Municipal facilities and uses operated by the Town, including offices, water and sewer services, shops, law enforcement, community center or any other public facilities operated by any governmental or quasi-governmental services requested by the Town | Y ⁵ | Y ⁵ | Y ⁵ | Y ⁵ | Y ⁵ | Y ⁵ | R |
| Municipal water and sewer facilities | R | R | R | R | R | R | R |
| Marijuana Establishment Use Groups: | | | | | | | |
| Marijuana cultivation facility | Y | N | R | R | R | R | N |
| Marijuana product manufacturing facility | N | N | NR | NR | R | R | N |
| Marijuana testing facility | N | N | R | R | R | R | N |
| Retail marijuana store | N | N | R | Y | Y | N | N |
| Medical marijuana center | N | N | YR | Y | Y | N | N |
| Medical marijuana optional premises for cultivation | N | N | Y R | R | Y R | Y R | N |
| Medical marijuana infused product facility | Y | N | NR | YR | Y R | Y R | N |
| Medical transporters | N | N | N | N | N | N | N |

Section 4. Severability. Should any one or more sections or provisions of this Ordinance be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance, the intention being that the various sections and provisions are severable.

Section 5. Repeal. Any and all ordinances or codes or parts thereof in conflict or inconsistent herewith are, to the extent of such conflict or inconsistency, hereby repealed; provided, however, that the repeal of any such ordinance or code or part thereof shall not revive any other section or part of any ordinance or code heretofore repealed or superseded and this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the effective date of this Ordinance.


Section 6. Minor Revisions or Correction Authorized. The Town Administrator, in consultation with the Town Attorney, is authorized to make minor revisions or corrections to the codified version of the provisions of this Ordinance provided that such revisions or corrections are grammatical, typographical, or non-substantive and do not alter or change the meaning and intent of this Ordinance.

Section 7. Effective date. After adoption by the Board of Trustees, this Ordinance

shall take effect thirty (30) days after publication following final passage.

**INTRODUCED, READ, AND PASSED, ADOPTED AND ORDERED PUBLISHED
THIS 21ST DAY OF SEPTEMBER 2021, BY A VOTE OF 7 IN FAVOR AND 0 AGAINST.**

TOWN OF NEDERLAND, COLORADO


Kristopher Larsen, Mayor

ATTEST:



Miranda Fisher, Town Clerk

APPROVED AS TO FORM:


Jennifer Madsen, Town Attorney

I hereby certify that the above Ordinance was adopted by the Board of Trustees of the Town of Nederland at its meeting of September 21, 2021, and ordered published by title only by The Mountain Ear newspaper on October 7, 2021.

ATTEST:


Miranda Fisher, Town Clerk