

TOWN OF WELLINGTON

ORDINANCE NO. 06-2023

AN ORDINANCE AMENDING THE TOWN OF WELLINGTON MARIJUANA
ORDINANCE

WHEREAS, in 2021, proponents of a ballot measure filed with the Town of Wellington an initiated ordinance that would allow the sale of marijuana within the Town of Wellington; and

WHEREAS, the initiated ordinance included setbacks for marijuana licenses that would prohibit issuance of a marijuana store license for premises within 2,000 feet of any school or preschool, 500 feet of any public property or other marijuana license, and 200 feet of any R-1, R-2, or R-4 residential district; and

WHEREAS, following successful citizen protests over the sufficiency of the petition for the proposed initiated ordinance, lawsuits were filed against the Town of Wellington to require referral of the measure on the ballot; and

WHEREAS, the Town of Wellington and the plaintiffs in those lawsuits settled the matter by negotiating through counsel a slightly modified ordinance that would fix many of the errors in the original proposed initiative; and

WHEREAS, at the November, 2021 general election, the voters of the Town of Wellington adopted the referred measure allowing the operation of retail and medical marijuana stores in the Town of Wellington; and

WHEREAS, the adopted ordinance included language that it could not be modified by the Town of Wellington Board of Trustees until January, 2023; and

WHEREAS, the adopted measure includes provisions that could cause uncertainty for potential applicants and omissions that would allow marijuana stores close to R-3 zone districts; and

WHERE, the Town of Wellington Local Licensing Authority for marijuana licenses recommends that the adopted ordinance be amended further to require that the licensure process include consideration of neighborhood needs and desires and other important concerns for the Town of Wellington; and

WHEREAS, the Wellington Board of Trustees desires to amend the Wellington Marijuana to address these concerns while ensuring that the voters' desires as expressed in the vote for the measure in 2021 are preserved.

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NOW, THEREFORE, BE IT ORDAINED by the Board of Trustees of the Town of Wellington, Colorado:

SECTION 1

The definition of “School” in Chapter 2, Article 14, Section 30 is amended to read:

School: A public or private preschool, a public or private elementary, middle, junior high, or high school, college, or principal campus of a college, or any day care licensed by the State of Colorado, except it shall not include a family child care home, as defined by the state.

SECTION 2

Chapter 2, Article 14, Section 40 is amended to read in its entirety:

Sec. 2-14-40. Applications—Licenses.

(a) An application for a License shall be filed in accordance with State law on forms provided by the State Licensing Authority. The application shall contain such information as the State Licensing Authority may require. Each application shall be verified by the oath or affirmation of the persons prescribed by the State Licensing Authority. An application shall be approved or denied by the Local Licensing Authority or the Local Licensing Official and by the State Licensing Authority. An application shall not be approved, and a license shall not be issued if either of the Licensing Authorities find that:

- The applicant knowingly made a false statement or knowingly gave false information with the application; or
- Reliable evidence shows the applicant will operate the proposed Retail and/or Medical Marijuana Store in violation of the Colorado Marijuana Code; or
- Good Cause, as defined in the Colorado Marijuana Code and other applicable law, exists for denial of the application.

(b) For new license applications, the applicant shall bear the burden of proving that all qualifications for licensure have been satisfied and must also satisfy the Local Licensing Authority that the applicant is fit to hold the requested license, and that the applicant is prepared to operate the business in compliance with the requirements of state and local law. The Local Licensing Authority shall consider the needs of the affected neighborhood and the desires of the affected neighborhood’s residents and businesses, including the employees of those businesses, as evidenced by petitions, remonstrances, testimony, or otherwise. For purposes of this subsection, the affected neighborhood shall include the area within one-half (0.5) mile of the property line of the Premises identified in the application.

SECTION 3

Chapter 2, Article 14, Section 70 is amended to read in its entirety:

Sec. 2-14-70. Restrictions for applications for marijuana store licenses.

(a) The Local Licensing Authority shall not receive or act upon an application for the issuance of a Local License pursuant to this Article:

(1) Until it is established that the applicant is, or will be, entitled to possession of the Premises for which application is made under a lease, rental agreement, letter of intent or other arrangement for possession of the premises or by virtue of ownership of the Premises.

(2) Until it is verified by the Planning Director or their delegee that the Premises complies with all zoning and land use ordinances and said zoning ordinances shall be amended as follows:

Retail or Medical Marijuana Store Licenses shall only be permitted in the C-3 zoning district. In addition, the following setbacks will apply:

a. Retail or Medical Marijuana Store Licenses shall not be permitted to be located within two thousand (2,000) feet of any parcel containing a school; and

b. A Retail or Medical Marijuana Store License shall not be permitted to be located within one thousand (1,000) feet of parcels zoned P (Public District) or any parcel containing another retail or medical marijuana store License; and

c. Retail or Medical Marijuana Store Licenses shall not be permitted to be located within two hundred fifty (250) feet of parcels zoned R-1 (Residential Rural Density District), R-2 (Residential Low Density District), R-3 (Residential Medium Density District) and/or R-4 (Downtown Neighborhood District).

(b) In addition to the requirements of the Colorado Marijuana Code the Local Licensing Authority shall consider the evidence and make a specific finding of fact as to whether the Premises in which Retail or Medical Marijuana Store licensure application is to be sold is located within any distance restrictions established by, or pursuant to, this Section. The distance restrictions established by, or pursuant to this Section shall not be varied by action of the Board of Adjustment or by the Local Licensing Authority.

(c) The distance measurements and requirements pursuant to this Section shall be computed by Direct Measurement in a straight line from the nearest property line of the land containing the Protected Use to the nearest portion of the building in which the Retail or Medical Marijuana Store License is located.

Section 4. Validity. The Board of Trustees hereby declares that should any section, paragraph, sentence, word or other portion of this ordinance or the rules and regulations adopted herein be declared invalid for any reason, such invalidity shall not affect any other portion of this ordinance or said rules and regulations, and the Board of Trustees hereby declares that it would have passed all other portions of this ordinance and adopted all other portions of said rules and

regulations, independent of the elimination here from of any such portion which may be declared invalid.

Section 5. Necessity. In the opinion of the Board of Trustees of the Town of Wellington, this ordinance is necessary for the preservation and protection of the health, safety, welfare and property of the inhabitants and owners of property in the Town of Wellington.

Section 6. Certification. The Town Clerk shall certify to the passage of this ordinance and make not less than three copies of the adopted Code available for inspection by the public during regular business hours.

PASSED AND ADOPTED by the Board of Trustees of the Town of Wellington, Colorado and ordered published this 13th day of June, 2023 and ordered to become effective 30 days from the date of publication.

TOWN OF WELLINGTON, COLORADO

By: _____
Calar Chaussee, Mayor

ATTEST:

Ethan Muhs, Town Clerk