

Robb Amendment #1 to CB 10-1003

Explanation of Amendment:

In committee the bill was amended to add two new location restrictions on medical marijuana centers, restrictions that did not exist in the city's original dispensary licensing ordinance. One committee amendment restricted licensing of medical marijuana centers in small retail areas that are "embedded" in residential neighborhoods, but the committee amendment defined embedded to include only the U-MS-2x zone district only. The other committee amendment restricted licensing of centers within 1000 feet of alcohol and drug treatment facilities.

This amendment will expand the definition of embedded retail to include any MS-2, MS-2x, MX-2, MX-2A and MX-2x zone district, prohibiting center licensing in any of these zone districts in the future. However, the amendment would grandfather any business that previously applied for and received a medical marijuana dispensary license in any of these zone districts under the city's original dispensary licensing ordinance, without the need for these businesses to go through any special application or renewal procedures in the future.

Likewise, the amendment will also grandfather any existing licensed dispensaries that may be located within 1000 feet of an alcohol or drug treatment facility without the need for these businesses to go through any special application or renewal procedures in the future.

Amend CB 10-1003 in the following particulars:

From p. 5, line 12 to p. 7, line 7, amend the bill by adding the language underlined and deleting the language stricken, to read as follow:

(c) *Prohibited locations.* No medical marijuana center license shall be issued for the following locations:

(1) In any residential zone district as defined by the zoning code of the city, in any ~~U-MS-2x~~ MS-2, MS-2x, MX-2, MX-2A or MX-2x zone district as defined by the zoning code of the city, or in any location where retail sales are prohibited by the zoning code or by any ordinance governing a planned unit development. The restriction against licensing a medical marijuana center in any MS-2, MS-2x, MX-2, MX2A or MX-2x zone district shall not apply to any location where the same applicant submitted a license application for a medical marijuana dispensary under Article XI of

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this Chapter 24 on or before July 1, 2010 and subsequently received a license under Article XI.

(2) Within one thousand (1,000) feet of any school or child care establishment, with the distance computed by direct measurement from the nearest property line of the land used for school or child care purposes to the nearest portion of the building in which the medical marijuana dispensary is located, using a route of direct pedestrian access. This restriction shall not apply to any location where the same applicant submitted a license application for a medical marijuana dispensary under Article XI of this Chapter 24 prior to March 1, 2010, was exempt from the spacing requirements set forth in Article XI, and subsequently received a license under Article XI.

(3) Within one thousand (1,000) feet of any other medical marijuana center licensed premises or of any premises licensed under Article XI of this Chapter 24, with the distance computed by direct measurement from the nearest portion of the building in which one center is located to the nearest portion of the building in which the other center is located, using a route of direct pedestrian access. This restriction shall not apply to any location where the same applicant submitted a license application for a medical marijuana dispensary under Article XI of this Chapter 24 prior to March 1, 2010, was exempt from the spacing requirement set forth in Article XI, and subsequently received a license under Article XI.

(4) Within one thousand (1,000) feet of any alcohol or drug treatment facility. The thousand-foot distance shall be computed by direct measurement from the nearest property line of the land used for alcohol or drug treatment facility purposes to the nearest portion of the property upon which the medical marijuana center license is proposed to be located, using a route of direct pedestrian access. This restriction shall not apply to any location where the same applicant submitted a license application for a medical marijuana dispensary under Article XI of this Chapter 24 on or before July 1, 2010 and subsequently received a license under Article XI.

~~(5) — a. Notwithstanding the prohibition against licensing in any MS-2x zone district as set forth in paragraph (1) of this subsection (c) or the prohibition against licensing within 1000 feet of an alcohol or drug treatment facility as set forth in paragraph (4) of this subsection (c), prior to July 1, 2011 only a medical marijuana center license may be issued in these~~

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prohibited locations if and only if the applicant meets the following requirements:

- ~~1. A medical marijuana dispensary license was applied for pursuant to Article 11 of this Chapter 24 upon the same zone lot on or before July 1, 2010;~~
 - ~~2. The applicant previously applied for a medical marijuana center license upon the same zone lot with the state medical marijuana licensing authority on or before August 1, 2010 in accordance with section 12-43.3-103 (1)(b), C.R.S.; and~~
 - ~~3. The applicant can produce to the satisfaction of the director documentary or other empirical evidence that the applicant had in fact commenced the sale of medical marijuana on the zone lot prior to January 1, 2011.~~
- ~~b. Any medical marijuana center license exempted from the prohibition against licensing in any U-MS-2x zone district or the prohibition against licensing within one thousand (1000) feet of an alcohol or drug treatment facility as set forth in sub paragraph a. of this paragraph (5) shall be subject to a public hearing prior to any renewal of the license. The director shall assign a hearing officer to conduct the public hearing as provided in section 24-505. The hearing shall not be conducted until the director has posted a notice of hearing on the licensed premises in the manner described in section 12-43.3-302 (2), C.R.S. for a period of ten (10) days, and provided notice to each of the following at least ten (10) days prior to the hearing: the licensee; the city council representative for the district in which the licensed premises is located; and any registered neighborhood association entitled to receive notice as provided in section 12-96. At the public hearing, the incumbent licensee and any other interested party shall be entitled to speak and present evidence supporting or opposing renewal of the license in the subject location. The hearing officer shall receive and give due consideration to any evidence or testimony submitted by the city council member representing the district in which the licensed premises are located, either in support or opposition to the renewal of the license. The medical marijuana~~

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~~center license shall be eligible for renewal in its current location unless it is shown by a preponderance of the evidence presented at the hearing that:~~

~~1. The existence of the medical marijuana center on the licensed premises has frustrated the implementation of the city's comprehensive plan and any adopted neighborhood plan applicable to the subject property;~~

~~2. The existence of the medical marijuana center on the licensed premises has negatively affected nearby properties or the neighborhood in general, including by way of example any adverse effects caused by excessive noise, odors, vehicular traffic, or any negative effects on nearby property values;~~

~~3. The existence of the medical marijuana center has caused crime rates to increase in the surrounding neighborhood; or~~

~~4. The continued existence of a licensed medical marijuana center in the subject location will have a deleterious impact on public health, safety and the general welfare of the neighborhood or the city.~~