

**TOWN OF WINTER PARK
ORDINANCE NO. 569
SERIES OF 2021**

**AN EMERGENCY ORDINANCE AMENDING TITLE 3, CHAPTER 7, OF
THE WINTER PARK TOWN CODE TO ENSURE FAIRNESS IN THE
REGULATED MARIJUANA BUSINESS LICENSING PROCESS**

WHEREAS, by Ordinance No. 559, Series of 2021, the Town Council adopted a regulated marijuana business licensing framework;

WHEREAS, the licensing framework established a two-phase process by which the opportunity to receive a license for one of the potential regulated marijuana business licenses would be left to chance by a random selection process;

WHEREAS, the intent of the random selection process is to ensure fairness and equal opportunity among applicants;

WHEREAS, among other things, the framework specifies, at Section 3-7-5(C) of the Code, that "[n]o person or entity may apply on behalf of another person or entity," and that an "applicant for a license must be the true applicant and may not be a shell or strawman for a third party";

WHEREAS, the Phase 1 application process closed on October 25, 2021, and the Town Clerk determined 41 applicants were complete and eligible for entry into the random selection process, which was set for November 10, 2021;

WHEREAS, before the random selection took place, the Town received a complaint from several applicants alleging unfairness and violations of Section 3-7-5(C) of the Code by certain other applicants;

WHEREAS, given the allegations, in a good faith effort to carry out the meaning and intent of Section 3-7-5(C) of the Code, Town Council feels it is appropriate to clarify and elaborate on the standards by which the Town Clerk will determine whether a person or entity is applying on behalf of another person or entity and whether an applicant for a license is a true applicant or a shell or strawman for a third party; and

WHEREAS, given the nature of the pending applications and the effort and expense expended by the applicants, the Town Council believes there is an urgent need to preserve the public health, safety and welfare by revising and clarifying the Winter Park Town Code by emergency ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL FOR THE TOWN OF WINTER PARK, COLORADO, THAT:

Section 1. Section 3-7-5(C) of the Winter Park Town Code is hereby amended as follows:

3-7-5: APPLICATION; PHASE 1 AND PHASE 2

* * *

C. The intent of the Phase 1 application process is to provide a fair opportunity for qualified and eligible persons and entities be selected for a Phase 2 review and to potentially obtain a license in the Town. As such, the following restrictions apply:

1. Multiple Phase 1 applications by the same person or entity or applications by multiple entities with substantially the same ownership **or who are affiliated entities** are prohibited and will be rejected. **For purposes of this Ordinance "substantially the same ownership" and "affiliated entities" are defined as follows:**

a. "Substantially the same ownership" means that entities share 50% or more ownership in common, as determined by the Town Clerk.

b. **"Affiliated entities" means a person, as defined by the Colorado Marijuana Code, having ownership or any level of control in common with an entity, in whole or in part, including, without limitation, an entity's parent corporation, franchisor, licensor, and any subsidiaries or affiliates of such parent corporations. "Affiliated entities" also means a person that has direct business or an immediate familial relationship with another person or a person using the same trade name as another person.**

2. No person or entity may apply on behalf of another person or entity. The applicant for a license must be the true applicant and may not be a shell or strawman for a third party. The selected applicant may not transfer an application to a third party at any time during the Phase 1 and Phase 2 review process.

3. **To ensure compliance with this requirement, if a license is issued, the licensee shall not transfer its license during the first two license years following the random selection process. In addition:**

a. **During the first two license years following the random selection process, a licensee shall not alter its ownership, ownership structure, name, or trade name; and**

b. **Each applicant shall demonstrate a funding plan sufficient to capitalize and cover the cost of initial construction and startup for the proposed business, which funding is not shared with or spoken for by another applicant.**

4. The local licensing authority shall promulgate rules and regulations as needed to carry out the intent of this Section to ensure and confirm that each Phase 1 applicant entered into the random selection process is a wholly separate business owned, operated, funded and controlled by a wholly separate person, as defined by the Colorado Marijuana Code.

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Section 2. Pursuant to Section 4.11 of the Town Charter, the Town Council hereby finds and declares that this ordinance is necessary for the immediate preservation of the public health, safety and welfare by ensuring fairness and removing uncertainty for regulated marijuana business license applicants. Facts showing such urgency include the 41 pending applicants seeking a place in the marijuana license Phase 1 random selection process, all of whom have invested considerable time and effort in preparing an application that has been pending with the Town since at least October 25, 2021, and the postponed initial selection process originally set for November 10, 2021.

Section 3. This ordinance shall take effect immediately upon approval by 5 affirmative votes.

INTRODUCED, ADOPTED, AND ORDERED PUBLISHED this ____ day of _____, 2021. Publication in summary shall occur within 10 days after adoption or as soon as possible thereafter.

TOWN OF WINTER PARK

Nick Kutrumbos, Mayor

ATTEST:

Danielle Jardee, Town Clerk