

CITY OF YUMA  
ORDINANCE NUMBER 2  
SERIES OF 2021

AN ORDINANCE ADDING A NEW CHAPTER 5.13 TO TITLE 5, AMENDING SECTIONS 9.42.040, 9.42.050, AND SECTION 17.04.402, AND REPEALING AND REENACTING SECTION 17.06.615 AND REPEALING SECTION 17.06.616, ALL OF THE YUMA MUNICIPAL CODE TO ALLOW FOR MARIJUANA PRODUCTS MANUFACTURING IN THE CITY

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF YUMA, COLORADO:

**Section 1.** Title 5 of the Yuma Municipal Code is hereby amended by the addition of a new Chapter 5.13 to read as follows:

**CHAPTER 5.13**

**RETAIL MARIJUANA PRODUCTS MANUFACTURING LICENSES**

**5.13.010. - Purpose.**

A. The purpose of this Chapter is to implement provisions of the Colorado Marijuana Code, C.R.S. § 44-10-101, *et seq.*, which authorizes the licensing and regulation of retail marijuana establishments and affords local governments the option to determine whether to allow retail marijuana establishments within their respective jurisdiction and to adopt licensing requirements that are supplemental to or more restrictive than the requirements set forth in state law.

B. The provisions of the Colorado Marijuana Code and any rules and regulations promulgated thereunder as the same may be amended from time to time, are incorporated herein by reference except to the extent that more restrictive or additional regulations are set forth in this Chapter. In addition to the regulations set forth in this Chapter, the City may enforce any provision of the Colorado Marijuana Code and any rules and regulations promulgated thereunder applicable to licensees.

**5.13.020. - Definitions.**

A. For purposes of this Chapter, the following terms shall have the following meanings:

*Applicant:* a person twenty-one (21) years of age or older, or all individuals who are members, managers, officers, and directors of the entity if the applicant is not a natural person, who has submitted an application for a license or a renewal of a licensed issued pursuant to this Chapter.

*Colorado Marijuana Code:* Article 10 of Title 44, Colorado Revised Statutes.

*Good Cause:* for purposes of refusing or denying a license renewal, reinstatement, or initial license issuance means: (a) the licensee or applicant has violated, does not meet, or has failed to comply with any of the terms, conditions, or provisions of state or local law, rules and regulations; (b) the licensee or applicant has failed to comply with any special terms or conditions that were placed on its license pursuant to an order of the state or local licensing authority; (c) the licensed premises have been operated in a manner that adversely affects the public health or welfare or the safety of the immediate neighborhood in which the establishment is located.

*License:* a document issued by the City officially authorizing an applicant to operate a retail marijuana products manufacturing facility pursuant to this Chapter.

*Licensee:* the person to whom a license has been issued pursuant to this Chapter.

*Licensed Premises:* the premises specified in an application for a license under this Chapter, which is owned or in possession of the licensee and within which the licensee is authorized to manufacture retail marijuana products in accordance with state and local law.

*Local Licensing Authority:* City Council of the City of Yuma.

*Marijuana:* all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate. *Marijuana* does not include industrial hemp, nor does it include fiber produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

*Marijuana Accessories:* any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana into the human body.

*Person:* a natural person, partnership, association, company, corporation, limited liability company or organization.

*Marijuana Cultivation Facility:* an entity licensed to cultivate, prepare, and package retail or medical marijuana and sell retail or medical marijuana to marijuana stores, to marijuana products manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers.

*Marijuana Establishment:* a marijuana store, a marijuana cultivation facility, a marijuana testing facility, and a marijuana manufacturing facility.

*Marijuana Products:* concentrated retail or medical marijuana products and marijuana products that are comprised of retail or medical marijuana and other ingredients that are intended for use or consumption, such as but not limited to, edible products, ointments and tinctures.

*Marijuana Products Manufacturing Facility:* a retail or medical product manufacturing facility.

*Marijuana Store:* an entity licensed to purchase retail or medical marijuana from marijuana cultivation facilities and retail or medical marijuana products from marijuana products manufacturing facilities and to sell retail or medical marijuana and retail or medical marijuana products to consumers.

*Marijuana Testing Facility:* an entity licensed by the City and State of Colorado to analyze and certify the safety and potency of retail or medical marijuana.

*Medical Marijuana Products Manufacturing Facility:* an entity licensed to purchase medical marijuana; manufacture, prepare, and package medical marijuana products; and sell medical marijuana and medical marijuana products to other medical marijuana products manufacturing facilities and to medical marijuana stores, but not to consumers.

*Retail Marijuana Products Manufacturing Facility:* an entity licensed to purchase retail marijuana; manufacture, prepare, and package retail marijuana products; and sell retail marijuana and retail marijuana products to other retail marijuana products manufacturing facilities and to retail marijuana stores, but not to consumers.

*Premises:* a distinct and definite location, which may include a building, a part of a building, a room, or any other definite contiguous area.

*School:* a public or private preschool or a public or private elementary, middle, junior high or high school.

*State Licensing Authority:* the authority created by the Colorado Department of Revenue for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, sale and testing of medical or retail marijuana in the State of Colorado pursuant to C.R.S. § 44-12-201.

B. In addition to the definitions provided in subsection A above, other terms used in this Chapter shall have the meaning ascribed to them in Article XVIII, §§ 14 and 16 of the Colorado Constitution, the Colorado Marijuana Code, or any rules and regulations, and such definitions are hereby incorporated into this Chapter by reference.

**5.13.030. Marijuana Establishments Prohibited Except for Retail Marijuana Manufacturing Facilities.**

All marijuana establishments, except retail marijuana manufacturing facilities that are licensed pursuant to this Chapter, are prohibited. Such prohibition is authorized by Article XVIII, section 16 of the Colorado Constitution; the Local Government Land Use Control Enabling Act, Colorado Revised Statutes § 29-20-101 *et seq.*; Colorado Revised Statutes § 31-23-101 *et seq.* (municipal zoning powers); Colorado Revised Statutes §§ 31-15-103 and 31-15-401 (municipal police powers); Colorado Revised Statutes § 31-15-501 (municipal authority to regulate businesses); and the Yuma Home Rule Charter.

**5.13.040. - Retail Marijuana Manufacturing Facility License Required.**

The City hereby authorizes the operation of retail marijuana manufacturing facilities in the City as set forth in this Chapter. It shall be unlawful for any person to establish or operate a retail marijuana manufacturing facility without having first obtained a license for such facility from the local licensing authority. Such licenses must be kept current at all times and a failure to maintain a current license shall constitute a violation of this Chapter.

**5.13.050. - Limitation on Licenses.**

A. No more than one (1) active license for a retail marijuana manufacturing facility licensed by this Chapter is permitted within the City at any given time.

B. If the maximum number of licenses have been issued, the City shall not accept any further applications for a retail marijuana manufacturing facility license until the existing license is either revoked or expires due to a failure to timely renew the license.

C. When the number of licensed retail marijuana manufacturing facility licenses is less than this limit, notice shall be posted on the City's website indicating that applications for a retail marijuana manufacturing facility license shall be accepted. Applications received by the City Clerk will be reviewed for completeness of a first-come, first-serve bases. If an application is incomplete, the Clerk shall notify the applicant and the next application received will be reviewed for completeness. The first complete application will be set for hearing before the local licensing authority. If such application is denied by the local licensing authority, the City shall review the next application received and will repeat this process until a license is issued. The City shall notify each applicant that is not accepted as complete by the Clerk, and shall refund the operating fee, but not the application fee. If the application is accepted as complete by the Clerk but not approved the local licensing authority, the operating fee shall be refunded, but not the application fee.

**5.13.060. - Requirements for Applications for a License; Payment of Application Fee; Denial of License.**

A. A person seeking a license or renewal of a license issued pursuant to this Chapter shall submit an application to the City on forms provided by the City Clerk. At the time of application, each applicant shall pay the nonrefundable application and refundable operation fee to the City in amounts to be determined by the City Council by resolution. In addition, the applicant shall present one (1) of the following forms of identification:

1. A driver's license issued by the State of Colorado;
2. An identification card issued by any state for the purpose of proving age using requirements similar to those in C.R.S. §§ 42-2-302 and 42-2-303;
3. A United States military identification card;
4. A valid passport;
5. A valid alien registration card; or
6. An enrollment card issued by the government authority of a federally recognized tribe located in the state of Colorado.

B. The applicant shall also provide the following information on a form acceptable to the City, which shall be required for the applicant, all employees, including the proposed manager of the retail marijuana products manufacturing facility and all persons having a ten percent (10%) or more financial interest in the retail marijuana products manufacturing facility that is the subject of the application or, if the applicant is an entity, having a ten percent (10%) or more financial interest in the entity:

1. Name, address, date of birth;
2. A complete set of fingerprints;
3. An acknowledgment and consent that the City will conduct a background investigation, including a criminal history check, and that the City will be entitled to full and complete disclosure of all financial records of the retail marijuana products manufacturing facility, including records of deposit, withdrawals, balances and loans;
4. Suitable evidence of proof of lawful presence, residence, if applicable, and good moral character and reputation that the City may request;

5. If the applicant is a business entity, information regarding the entity, including, without limitation, the name and address of the entity, its legal status, and proof of registration with, or a certificate of good standing from, the Colorado Secretary of State, as applicable;
6. The name and complete address of the proposed retail marijuana products manufacturing facility, including the facilities to be used in furtherance of such establishment, whether or not such facilities are, or are planned to be, within the territorial limits of the City;
7. A copy of a deed, lease, or other contractual document showing that the applicant has a right of possession of the proposed location for the retail marijuana products manufacturing facility for the full duration of the license period;
8. Evidence of a valid sales tax license for the retail marijuana products manufacturing facility;
9. A "to scale" diagram of the premises, showing, without limitation, a site plan, building layout,
10. If applicable, all entry ways and exits to the retail marijuana products manufacturing facility and, loading zones and all areas in which marijuana and marijuana products will be stored or dispensed;
11. Any additional information that the local licensing authority reasonably determines to be necessary in connection with the investigation and review of the application; and
12. A comprehensive business operation plan for the retail marijuana products manufacturing facility which shall contain, without limitation, the following:
  - a. A security plan meeting the requirements applicable provisions of the Colorado Marijuana Code and all rules and regulations promulgated thereunder;
  - b. A description by category of all products to be sold;
  - c. A signage plan that is in compliance with all applicable requirements of Chapter 17.08 and other applicable provisions of the Yuma Municipal Code, as well as the Colorado Marijuana Code and all rules and regulations promulgated thereunder;
  - d. A plan for ventilation of the retail marijuana products manufacturing facility that fully describes the ventilation systems that will ensure the odor of marijuana cannot be detected by a person with a normal sense of smell at the exterior of the retail

marijuana products manufacturing facility or at any adjoining property. Such plan shall also include all ventilation systems used to mitigate noxious gases or other fumes used or created as part of the production process; and

e. A plan for the disposal of marijuana and related byproducts meeting the requirements of applicable provisions of the Colorado Marijuana Code.

C. A license issued pursuant to this Chapter does not eliminate the need for the licensee to obtain other required permits or licenses related to the operation of the retail marijuana products manufacturing facility, including without limitation, a license from the state licensing authority and any development approvals or building permits required by this Chapter and any other applicable provisions of the Yuma Municipal Code.

D. Upon receipt of an application for a new retail marijuana products manufacturer license, the local licensing authority shall schedule a public hearing on the application to be held not less than thirty (30) days after the date of the completed application. The local licensing authority shall cause a notice of such hearing to be posted in a conspicuous place upon the proposed licensed premises and published in a newspaper of general circulation within the City not less than ten (10) days prior to the hearing. Such posted notice given by posting shall include a sign of suitable material in dimensions and with lettering as required by the City. Both the posted and the published notice shall state the type of license applied for, the date of the hearing, the name and address of the applicant, and such other information as may be required to fully apprise the public of the nature of the application.

E. The burden to demonstrate that an application should be approved shall be on the applicant. Failure of the applicant to appear at the public hearing shall constitute grounds for denial.

F. Not less than five (5) days prior to the date of the public hearing for a new license, the local licensing authority shall cause its preliminary findings based on its investigation to be known in writing to the applicant and other parties in interest. The local licensing authority shall deny any application that does not meet the requirements of this Chapter. The local licensing authority shall also deny any application that contains any false, misleading or incomplete information. The local licensing authority shall also deny or refuse to issue a license for good cause. Denial of an application for a license shall not be subject to further administrative review but only to review by a court of competent jurisdiction. At any time prior to commencement of the public hearing, licensee may withdraw its application, and the public hearing shall be cancelled.

G. Before entering a decision approving or denying the application for a local license, the local licensing authority may consider, except where this Chapter

specifically provides otherwise, the facts and evidence adduced as a result of its investigation, as well as any other facts pertinent to the type of license for which application has been made, including the number, type and availability of the retail marijuana products manufacturing facility located in or near the premises under consideration, and any other pertinent matters affecting the qualifications of the applicant for the conduct of the type of business proposed. The local licensing authority shall issue its decision within ninety (90) days of the receipt of the complete license application. Such decision shall be by Resolution and shall state the reasons for the decision. The Resolution shall be sent via certified mail to the state licensing authority and the applicant at the address shown in the application.

H. The City may, prior to issuance of the license, perform an inspection of the proposed licensed premises to determine compliance with any applicable requirements of this Chapter or other applicable requirements of the Yuma Municipal Code.

**5.13.070. - Persons Prohibited as Licenses or Employees.**

A. A retail marijuana products manufacturing license shall not be issued to or held by any person prohibited as a licensee under C.R.S. § 44-10-307, as amended.

B. No licensee shall employ or contract with any person to perform work functions directly related to the possession, cultivation, dispensing, selling, serving, or delivering of marijuana for a licensed retail marijuana products manufacturing facility, any of the following:

1. Any person who is not of good moral character satisfactory to the local licensing authority;
2. Any person who is under twenty-one (21) years of age;
3. Any person who is not currently a resident of Colorado;
4. Any person who has discharged a sentence for a felony conviction within the past five (5) years;
5. Any person who, at any time, has been convicted of a felony for drug possession, distribution, or use, unless such felony drug charge was based on possession or use of marijuana or marijuana concentrate that would not be a felony if the person were convicted of the offense on the date, he or she applied for the license; or
6. Any sheriff, deputy sheriff, police officer, prosecuting officer, and state or local licensing authority or any of its members, inspectors or employees.

C. Jurisdiction.



1. In investigating the qualifications described herein, the local licensing authority may have access to criminal history record information furnished by a criminal justice agency subject to any restrictions imposed by such agency. In the event the local licensing authority takes into consideration information concerning the applicant's criminal history record, the local licensing authority shall also consider any information provided by the applicant regarding such criminal history record, including but not limited to evidence of rehabilitation, character references, and educational achievements, especially those items pertaining to the period of time between the applicant's last criminal conviction and the consideration of the application for a license.

2. As used in subsection (C)(1) of this Section, "criminal justice agency" means any federal, state, or municipal court or any governmental agency or sub-unit of such agency that performs the administration of criminal justice pursuant to a statute or executive order and that allocates a substantial part of its annual budget to the administration of criminal justice.

3. By filing an application with the City, applicants consent to the City accessing all information possessed by the Colorado Marijuana Enforcement Division relating to their application for a license to operate a retail marijuana products manufacturing facility and consent to the release of such information to the City.

**5.13.080. – Operational restrictions.**

The use, consumption, ingestion or inhalation of marijuana or marijuana products on or within the premises of a retail marijuana products manufacturing facility is prohibited.

**5.13.090. - Retail Marijuana Products Manufacturing Facility.**

A. Licensed retail marijuana products manufacturers may manufacture, prepare, package, and label retail marijuana products, whether in concentrated form or that are comprised of retail marijuana and other ingredients intended for use or consumption. Licensed retail marijuana products manufacturers may sell retail marijuana products of its own manufacture to persons holding a retail marijuana store license or other licensed retail marijuana products manufacturers. Licensed retail marijuana products manufacturers are prohibited from selling retail marijuana or retail marijuana products to any consumer.

B. All marijuana products shall be sealed and conspicuously labeled in compliance with state law.

**5.13.100. - Location Criteria.**

Prior to the issuance of a license, the local licensing authority shall determine whether the proposed location complies with the requirements of this Section. Failure to comply with the requirements of this Section shall preclude issuance of a license.

A. Retail marijuana products manufacturing facilities may only be located in the Industrial Park District (I-1).

B. No retail marijuana products manufacturing facility shall be located at the following locations:

1. within 1,000 feet of any educational institution or school, whether public or private or any library;
2. within 1,000 feet of a licensed child care facility;
3. within 1,000 feet of any alcohol or drug rehabilitation facility;
4. within 1,000 feet of any marijuana establishment;
5. within any building or structure that contains a residential unit;
6. within the same licensed location as a retail food establishment or wholesale food registrant; or
7. upon any City of Yuma owned property.

C. The distances described in this Section shall be computed by direct measurement from the nearest property line of the land used for the above purposes to the unit within a building or structure housing the retail marijuana products manufacturing facility.

D. A retail marijuana products manufacturing facility shall be operated from a permanent location. No retail marijuana products manufacturing facility shall be permitted to operate from a moveable, mobile, or transitory location or structure.

E. The suitability of a location for a retail marijuana products manufacturing facility shall be determined at the time of the issuance of the first license for such establishment. The fact that changes in the neighborhood that occur after the issuance of the first license might render the site unsuitable for a retail marijuana products manufacturing facility under this Section shall not be grounds to suspend, revoke, or refuse to renew the license for such establishment so long as the license for the establishment remains in effect.

**5.13.110. - Issuance of License; Duration; Renewal.**

A. Upon issuance of a license, the City shall provide the licensee with one (1) original of such license for the retail marijuana products manufacturing facility to be operated by the licensee in the City. Each such copy shall show the name and address of the licensee, and the address of the facility at which it is to be displayed.

B. Each license issued pursuant to this Chapter shall be valid for one (1) year from the date of issuance and may be renewed only as provided in this Chapter. All renewals of a license shall be for no more than one (1) year. An application for the renewal of an existing license shall be made to the City not more than sixty (60) days and not less than thirty (30) days prior to the date of expiration of the license. A licensee may submit to the local licensing authority a late renewal application on the prescribed forms and pay a non-refundable late application fee in an amount set by the City Council via resolution for a renewal application made less than thirty (30) days prior to the date of the expiration of the license. All other provisions concerning renewal applications apply to a late renewal application. The timely filing of a completed renewal application or a late renewal application shall extend the current license until a decision is made on the renewal.

C. If an existing licensee fails to file a complete renewal application by the expiration of the license, in accordance with subsection (B) above, the City shall issue notice pursuant to Sec. 5.13.050(C) and follow the procedures in that section.

D. The local licensing authority may hold a hearing on the application for renewal only if the licensee has had complaints filed against it, has a history of violations, or there are allegations against the licensee that would constitute good cause. The local licensing authority shall not hold a renewal hearing provided for by this subsection (D) until it has posted a notice of hearing on the licensed premises for a period of ten (10) days and, provided notice to the applicant at least ten (10) days prior to the hearing. The local licensing authority may refuse to renew any license for good cause, subject to judicial review.

E. A licensee whose license expires shall not manufacture marijuana or marijuana products until all necessary new licenses have been obtained.

#### **5.13.120. - Authority to Impose Conditions on License**

The local licensing authority shall have the authority to impose such reasonable terms and conditions on a license as may be necessary to protect the public health, safety and welfare, and to obtain compliance with the requirements of this Chapter and applicable law.

#### **5.13.130. - Annual Operations Fee.**

Upon application for a license or any renewal of a license, the licensee shall pay to the City a fee in an amount determined by City Council to be sufficient to cover

the annual cost of inspections conducted by the Yuma Police Department, and such other departments of the City as may be designated by the local licensing authority, for the purpose of determining compliance with the provisions of this Chapter and any other applicable state or local laws or regulations. If a license or renewal license is not granted, the fee shall be refunded.

**5.13.140. - Display of License.**

A. Each license shall be limited to use at the premises specified in the application for such license.

B. Each license shall be continuously posted in a conspicuous location at the retail marijuana products manufacturing facility.

**5.13.150. - Management of Licensed Premises.**

Licensees who are natural persons shall either manage the licensed premises themselves or employ a separate and distinct manager on the premises and report the name of such manager to the local licensing authority. Licensees that are entities shall employ a manager on the premises and report the name of the manager to the local licensing authority. All managers must be natural persons and meet the requirements of this Chapter.

**5.13.160. – Inspection of licensed premises.**

During all business hours and other times of apparent activity, all licensed premises shall be subject to inspection by the local licensing authority, the Yuma Police Department, by law enforcement officers, or such other departments or individuals duly authorized by the City for the purpose of investigating and determining compliance with the provisions of this Chapter and any other applicable state and local laws or regulations. Said inspection may include, but need not be limited to, the inspection of books, records and inventory. Where any part of the licensed premises consists of a locked area, such area shall be made available for inspection, without delay, upon request. Acceptance of a license constitutes consent to such inspections, which may not be withdrawn during the period of a license.

**5.13.170. - Violations and penalties.**

In addition to the possible denial, suspension, revocation or nonrenewal of a license under the provisions of this Chapter, any person, including, but not limited to, any licensee, manager or employee of a retail marijuana products manufacturing facility, or any customer of such establishment, who violates any of the provisions of this Chapter, shall be subject to the following penalties:

A. Any person convicted of having violated any provision of this Chapter shall be punished as set forth in Section 1-24 of the Yuma Municipal Code.

B. The operation of a retail marijuana products manufacturing facility without a valid license issued pursuant to this Chapter may be enjoined by the City in an action brought in a court of competent jurisdiction, including the Yuma Municipal Court.

C. The operation of a retail marijuana products manufacturing facility without a valid license issued pursuant to this Chapter is also deemed to be a nuisance pursuant to Chapter 8.26 of the Yuma Municipal Code.

**5.13.180. - No City liability; indemnification.**

A. By accepting a license issued pursuant to this Chapter, the licensee waives and releases the City, its officers, elected officials, employees, attorneys and agents from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of retail marijuana products manufacturing facility owners, operators, employees, or customers for a violation of state or federal laws, rules or regulations.

B. By accepting a license issued pursuant to this Chapter, all licensees, jointly and severally, if more than one, agree to indemnify, defend and hold harmless the City, its officers, elected officials, employees, attorneys, agents, insurers and self-insurance pool against all liability, claims and demands on account of any injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever arising out of or in any manner connected with the operation of the retail marijuana products manufacturing facility that is the subject of the license.

**5.13.190. - No waiver of governmental immunity.**

In adopting this Chapter, the City Council is relying on, and does not waive or intend to waive, by any provision of this Chapter, the monetary limitations or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101 *et seq.*, as from time to time amended, or any other limitation, right, immunity, or protection otherwise available to the City, its officers or its employees.

**5.13.200. - Other laws remain applicable.**

A. To the extent the state has adopted or adopts in the future any additional or stricter law or regulation governing the sale, processing, distribution or testing of marijuana or marijuana products, the additional or stricter regulation shall control the establishment or operation of any retail marijuana products manufacturing facility in the City. Compliance with any applicable state law or regulation shall be deemed an additional requirement for issuance or denial of any license under

this Chapter, and noncompliance with any applicable state law or regulation shall be grounds for revocation or suspension of any license issued hereunder.

B. Any licensee may be required to demonstrate, upon demand by the local licensing authority, the Yuma Police Department, by law enforcement officers, or such other departments or individuals duly authorized by the City, that the source and quantity of any marijuana found upon the licensed premises are in full compliance with any applicable state law or regulation.

C. If the state prohibits the sale or other distribution of marijuana through a retail marijuana products manufacturing facility, any license issued hereunder shall be deemed immediately revoked by operation of law, with no ground for appeal or other redress on behalf of the licensee.

D. The issuance of any license pursuant to this Chapter shall not be deemed to create an exception, defense or immunity to any person regarding any potential criminal liability the person may have for the cultivation, possession, sale, distribution or use of marijuana.

**Section 2.** Section 9.42.040 of the Yuma Municipal Code is hereby amended as follows:

**9.42.040. Manufacture, Sale, or Delivery of Drug Paraphernalia.**

Any person who sells or delivers, possesses with intent to sell or deliver, or manufactures with intent to sell or deliver equipment, products or materials knowing, or under circumstances where one reasonably should know, that such equipment, products or materials could be used as drug paraphernalia commits a violation of this chapter. This section shall not apply to a City licensed retail marijuana products manufacturing facility.

**Section 3.** Section 9.42.050(B) of the Yuma Municipal Code is hereby amended by the addition of new subsection as follows:

7. This section shall not apply to a City licensed retail marijuana products manufacturing facility.

**Section 4.** Section 17.04.402 of the Yuma Municipal Code is hereby amended by the addition of "Retail Marijuana Products Manufacturing Facility" as a use by right in the Industrial Park District (I-1) and prohibited in all other zones.

**Section 5.** Section 17.06.615 of the Yuma Municipal Code is hereby repealed and reenacted as follows:

**17.06.615. – Prohibition of Marijuana Establishments.**

Marijuana establishments, as defined in Section 5.13.020, excluding for retail marijuana products manufacturing facilities, are prohibited in all zone districts.

**Section 6.** Section 17.06.616 of the Yuma Municipal Code is hereby repealed.

**Section 7.** If any article, section, paragraph, sentence, clause or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

**Section 8.** This ordinance is deemed necessary for the protection of the health, welfare, and safety of the community.

**INTRODUCED, 1<sup>ST</sup> READING, AND ORDERED PUBLISHED** at a regular meeting of the City Council of the City of Yuma, Colorado on July 6, 2021.

By: Ron Swehla  
Ron Swehla, Mayor

Attest:  
Karma Wells  
Karma Wells, City Clerk



Swehla yes  
Baucke yes  
Ebersole yes  
McClung yes  
Shay yes  
Hoch yes  
Smith-Dischner yes

A Public Hearing on this ordinance will be held at the July 20, 2021, City Council meeting. The Council Meeting will be held at 6:30 P.M. at City Hall, 320 South Main Street, Yuma, Colorado.

Ordinance Published: July 15, 2021 (in full)

ORDINANCE NUMBER 2 READ AND APPROVED ON SECOND READING AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF YUMA, COLORADO ON July 20, 2021.

By: Ron Swehla  
Ron Swehla, Mayor

Attest:  
Karma Wells  
Karma Wells, City Clerk



Swehla yes

Baucke	<u>yes</u>
Ebersole	<u>yes</u>
McClung	<u>yes</u>
Shay	<u>yes</u>
Hoch	<u>yes</u>
Smith-Dischner	<u>yes</u>