

GENERAL INFORMATION

Request: City Code amendment establishing new uses and standards for cannabis businesses, thereby amending Chapters 19 and 21.

Location: Citywide

HISTORY

City Council Action: 01/26/2015 – City Council adopted a one-year moratorium on medical marijuana facilities.

10/19/2015 – City Council adopted an ordinance amending Chapters 14, 19, and 21 of the City Code regarding medical marijuana distribution facilities (Case #10000G-15).

08/28/2023 – City Clerk held a study item to collect preliminary guidance on cannabis legalization and the City’s approach to regulation.

CHRONOLOGY

Advisory Board of Health	04/23/2024	Study item
	05/28/2024	Policy recommendations completed
Planning Commission	05/23/2024	Study item completed
	07/25/2024	Public hearing continued
	08/15/2024	Public hearing scheduled
City Council	06/17/2024	Study item completed
	08/26/2024	Study item scheduled

DEADLINE FOR AGENCY ACTION

Application Date: 05/15/2024
Applicable Deadline: Waived by the applicant

STAFF CONTACT

Emily Hestbech, Planner
Phone: 952-563-4507
E-mail: ehestbech@BloomingtonMN.gov

BACKGROUND

During study items held in May and June, the Advisory Board of Health, Planning Commission, and City Council gave staff direction for completing a required update to the city code related to medical and adult-use cannabis. Although the three boards and bodies provided different guidance, staff used the comments and feedback to create an initial ordinance to codify the changes. This round of proposed Code amendments represent the first phase of anticipated amendments overall; staff will likely come before the Commission and Council again in the fall or winter to complete the use standards section and modify other parts of the City Code as State regulations and procedures are finalized. This ordinance contains the zoning regulations necessary for potential social equity applicants to acquire licenses from the City. The first round of social equity state licenses are anticipated to be available by the end of fall.

PROPOSAL

On August 1st, 2023, adult-use cannabis became legal in the State of Minnesota. State Statute grants local governing authorities the right to adopt reasonable restrictions on the time, place, and manner of the operation of a cannabis business. This includes regulation for buffer requirements, number limitations, and general zoning and performance standards. Local governing authorities cannot prohibit the establishment or operation of a cannabis business but can limit the number of registrations of retail licenses in the City. Within 30 days of receiving a copy of an application from the Office of Cannabis Management (OCM), the City must certify on a form whether the proposed cannabis business complies with local zoning ordinances and meets Fire and Building Codes. Following license issuance by the OCM, license holders are required to register with the city in which their business will be located.

To accommodate different review and procedural requirements for proposed regulations and to provide more time for the preparation of Licensing standards, staff decided to split the broader cannabis ordinance into two separate ordinances: one for the zoning changes (Chapters 19 and 21), and one for the licensing changes (Chapter 14). The Planning Commission's scope is to review and

provide a recommendation on the proposed zoning ordinance changes, which include zoning use types, zoning districts allowances, and future performance standards. Although the Planning Commission will only be reviewing the proposed zoning changes, the proposed licensing changes, including sensitive use types and buffer distances from those sensitive uses, provide important context to the zoning ordinance changes and will also be briefly described below.

ZONING CODE CHANGES

Definitions

Definitions were added into the general Zoning Code definition section, 19.03, for the three new use types and low-potency hemp manufacturing, further explained below.

Use Types

Many of the State license types align with existing Bloomington Zoning Use Types. Neither the Planning Commission nor the City Council recommended changes to the three new use types that staff proposed. The State did make changes to their licenses after the previous study items were conducted, removing three types of medical licenses. This did not affect the categorization of licenses within existing and new use types related to cannabis.

The three new zoning use types proposed are below:

- Cannabis Combination Business
- Cannabis Manufacturer
- Cannabis Testing Facility

Although the cannabis combination business use contains state license types that allow for a multitude of actions, such as retail, manufacturing, wholesaling, etc., it is not a requirement for those license holders to perform all of the actions in one location. Because of this, it is important to note that a business with one of the license types that falls within the cannabis combination business use, such as a cannabis microbusiness or cannabis mezzobusiness, will have the zoning approval type based on the actions they will be performing at the specific location within Bloomington. For example, if a business holds a cannabis microbusiness license but will only be using the license to operate a retail store in Bloomington, the zoning use type will be considered retail, regardless of the license type.

Zoning Districts and Approval Types

With the proposed new zoning use types, the zoning use tables must be updated. These updates include adding which zoning districts the new uses are allowed in and specifying their approval type or designation (e.g. permitted, conditional, etc.). The new use types are all conditional uses in the zoning districts in which they are allowed.

The changes to the use tables (21.209) are listed below:

- Cannabis Combination Businesses as a conditional use in the Transitional Industrial (TI) district;
- Cannabis Manufacturer as a conditional use in the Industrial Park (I-1), Limited Industry (I-2), General Industry (I-3), Industrial Park (IP), TI, Freeway Development (FD-2), and Commercial Service (CS-1 and CS-0.5) districts; and
- Cannabis Testing Facility as a conditional use in Innovation and Technology (IT), I-1, I-2, I-3, IP, TI, FD-2, Mixed Use (CX-2), Lindau Mixed Use (LX), and Commercial Office District (CO-1) districts.

Additionally, the State allows for low-potency hemp edible manufacturing licenses to also have a license to manufacture or sell alcoholic beverages. Therefore, Section 21.302.29 was changed to allow low-potency hemp edible manufacturing as a customarily incidental use to breweries, brewpubs, distilleries, taprooms, cocktail rooms, and wineries.

Use Standards

Use standards related to medical and adult-use cannabis have yet to be finalized by the State. Staff will bring use standards back with updates at the next phase of changes to this ordinance. Section 21.302.22(d) is currently proposed to be reserved for future use standards. The need for City standards will depend on the adopted State standards. These potential standards could include:

- Ventilation
- Wastewater/solid waste management
- Lighting
- Security
- Water usage

Staff created a parking table to outline what parking standards would be applied to each cannabis use. These are based on existing parking standards and translated for the zoning uses that would correlate with each State license type.

Deletions from the Existing Zoning Code

Several parts of the Zoning Code related to medical marijuana are proposed to be reserved or deleted. These parts are listed below:

- The performance standards section regarding medical marijuana distribution facilities (21.302.22) was updated to become the new section for medical and adult-use cannabis;
- Definitions of medical marijuana and medical marijuana distribution facility were deleted from the Zoning Code definitions section, 19.03;
- Medical Marijuana distribution facilities were deleted from the use tables (21.209) and made reserved in 19.31.01(d)(9) for the Regional Commercial (CR-1) zoning district
- The parking standard for medical marijuana distribution facilities was deleted in section 21.301.06(d)(1); and
- The section that listed the requirement of a conditional use permit reviewed by Council for medical marijuana distribution facilities was changed to reserved in 21.501.04(d)(1)(P).

LICENSING

As part of the previously conducted study items, the Planning Commission and City Council provided guidance on the required buffer distances from sensitive uses and license limits for retail cannabis businesses. Those regulations will be placed in City Code Chapter 14: Licenses and Permits. Those regulations are still being finalized as the State Office of Cannabis Management works through its rulemaking process. Staff will provide an update to the City Council on August 26th (study item) before scheduling a public hearing in September on both the Zoning and Licensing ordinances.

State Statute allows cities to add requirements for minimum buffer distance from schools, daycares, residential treatment facilities, and attractions within a public park that are regularly used by minors.

The Planning Commission recommended that schools & residential treatment facilities be included as the sensitive uses for which there would be a buffer distance. The Advisory Board of Health and the City Council recommended including park attractions as well. The Planning Commission and City Council recommended a 300' buffer distance (consistent with current regulations for liquor stores), while the Advisory Board of Health recommended the maximum distances permitted by State Statute (1000' for schools and 500' for the other sensitive uses).

Statute also allows local governments to set a cap on the number of cannabis retail licenses, no fewer than 1 per 12,500 residents. While staff and the Planning Commission did not recommend a cap, the Advisory Board of Health and City Council recommended adopting the cap as allowed by statute. For Bloomington, this would cap the number of cannabis retail licenses at seven. It should be noted that limits on the number of licenses could be expanded at a later date through a subsequent City Code amendment.

Since those study items were held in May and June of this year, some additional policy questions have been identified:

- Retail hours of operation. Staff will recommend hours of operation similar to liquor stores.
- Cities can adopt different standards for retail cannabis dispensaries than hemp edible retailers, including different buffer distances. Additionally, cities may have the ability to limit hemp products to exclusive 21+ establishments (liquor stores, tobacco stores, etc.)

These questions will be discussed with the City Council as part of the planned study item on August 26th.

OUTREACH/NOTIFICATION

- Newspaper Notice (Confirmed - 07/11/24 Sun Current – 10-day notice)
- Public Hearing Notice Online
- E-Subscribe Notice
- Meeting with Business Planning Bloomington Location

RECOMMENDATION

Staff recommends that the Planning Commission recommend adoption of the ordinance through the following motion:

I move to recommend the adoption of an ordinance amending Chapters 19 and 21 of the City Code updating medical and adult-use cannabis uses, allowances, and standards.