



## Legislation Text

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### **CITY COUNCIL AGENDA ITEM**

#### **ACTION REQUESTED:**

Provide direction regarding amendments to Title 6 (Zoning Ordinance) pertaining to cannabis facilities other than dispensaries and medical cultivation facilities

**DEPARTMENT:** Transportation, Engineering and Development

**SUBMITTED BY:** Allison Laff, AICP, Deputy Director and Pat Lord, Senior Assistant City Attorney

#### **BOARD/COMMISSION REVIEW:**

This agenda item is submitted in response to City Council's recommendation that amendments be considered to Title 6 (Zoning Ordinance) to allow one or more cannabis businesses in addition to the cannabis dispensaries and medical cannabis cultivation centers already allowed under the Municipal Code. Upon Council direction, the proposed amendments will be presented to the Planning and Zoning Commission (PZC) at a future public hearing. The purpose of this agenda item is to discuss which additional cannabis businesses for which the City Council would like the PZC to consider zoning requirements. This item was originally scheduled for the December 1, 2020 City Council meeting but was continued to January 5, 2021 due to the large number of items. **The information below has been updated since the December 1, 2020 submission.**

#### **BACKGROUND:**

On August 18, 2020, the City Council passed Ordinance 20-088 amending various chapters of Title 6 permitting dispensaries and medical cultivation centers. The ordinance prohibited all other cannabis business types including craft growers, processing organizations, transporting organizations, infuser organizations, and adult-use cultivation centers.

Since passage of Ordinance 20-088, certain prohibited cannabis businesses have expressed interest in locating facilities within the City of Naperville. In order for these businesses to be permitted, Title 6 would need to be amended to remove the prohibition as well as establish zoning requirements that would regulate the uses.

Under New Business at its November 17, 2020 meeting, the City Council directed staff to prepare a report on potential zoning amendments regarding additional cannabis businesses for review and direction. The Council indicated no interest in considering craft growers or adult-use cultivation centers, but requested additional information about processing organizations, transporting organizations, and infuser organizations. Definitions for each, per the Cannabis Regulation and Tax Act (CRTA), are attached.

In addition, the Council discussed facilities which test cannabis (either as a principal use or as part of a larger testing operation) in Naperville. These facilities are not defined as Adult Use Cannabis

Business Establishments within the CRTA and are therefore not currently prohibited by Ordinance 20-088. While facilities which test cannabis require registration and approval by the Illinois Department of Agriculture, such facilities are not licensed by the Department of Agriculture. Staff recommends clarifying the zoning regulations applicable to facilities which test cannabis in any zoning amendment that is undertaken.

Finally, pursuant to state regulations which have been adopted to implement the provisions of the CRTA, processing organizations are no longer included in the definition of what constitutes a cannabis business establishment (Title 8, Section 1300.10 of the Illinois Administrative Code/Cannabis Regulation and Tax Act). Although still referenced in the CRTA, processing organizations don't exist under the state regulations that govern cannabis business establishments. Therefore, all references to cannabis processing organizations will be eliminated from the City's ordinances going forward.

### **DISCUSSION:**

With the elimination of processing organizations as a cannabis business entity, the two remaining cannabis businesses for which City Council has expressed interest in considering permitting are transporting organizations and infuser organizations.

1. Transporting Organizations, or transporters, are defined in the CRTA as:

An organization or business that is licensed by the Department of Agriculture to transport cannabis or cannabis-infused product on behalf of a cannabis business establishment or a community college licensed under the Community College Cannabis Vocational Training Pilot Program.

- The operations of transporting organizations are governed and licensed by the Illinois Department of Agriculture but are subject to local zoning regulations.
- Transporters are required to obtain a transporter agent ID card and are subject to a background check.
- Transporters may only transport cannabis or cannabis infused products to a cultivation center, a craft grower, an infuser, a dispensary, a testing facility, or as otherwise permitted by rules established by the state.

2. Infuser Organizations, or infusers, are defined in the CRTA as:

A facility operated by an organization or business that is licensed by the Department of Agriculture to directly incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis-infused product.

- The operations of infuser organizations are governed and licensed by the Illinois Department of Agriculture and are subject to local zoning regulations.
- Under the Administrative Code, infuser organizations may not be located closer than 1,500 feet to another infuser or cultivation center. Nor may infusers be located in an area zoned for residential use (though "residential use" is defined in the Illinois Administrative Code as an area zoned exclusively for residential use; an area that allows non-residential uses is not considered an area zoned exclusively for residential use).

- Unless an infuser organization or an agent of the infuser organization has a transport organization license, an infuser or infuser agent may only transport cannabis or cannabis-infused products to cannabis business establishments within 15 miles of the infuser. Infusers may enter into a contract with a transporting organization to transport cannabis to a dispensing organization or laboratory.
- An infuser organization may share premises with a craft grower or a dispensing organization, or both, subject to compliance with state law.
- An infuser may not sell or distribute cannabis other than to a dispensary unless otherwise permitted by state regulations.
- All processing of cannabis by an infuser must take place in an enclosed, locked facility at the physical address for which the license was issued.

***Direction/Consensus on the following items:***

City Council feedback is requested on the issues listed below. Upon Council concurrence, a full text amendment addressing zoning for additional cannabis business types will be drafted for review by the PZC at a future public hearing.

1. Should craft growers and adult use cultivation centers continue to be prohibited from operating within the City?
2. Should cannabis transporting organizations be allowed to operate within the City?
3. Should cannabis infuser organizations be allowed to operate within the City?
4. Should a text amendment clarify what, if any, zoning requirements should separately apply to facilities which provide cannabis testing within the City?

If there is consensus to permit transporting organizations and/or infuser organizations within the City, staff recommends that the City Council consider the following zoning options:

1. Should transporting organizations and infuser organizations be zoned as *a permitted or conditional use* in the City's industrial zoning districts (I, ORI, and RD)?
  - A permitted use requires no public review process.
  - A conditional use requires review a public hearing before the PZC with final City Council approval.
2. Should there be minimum distance requirements for transporting organizations or infuser organizations in addition to state regulations that provide that infuser organizations may not be located closer than 1,500 feet to another infuser or cultivation center? What, if any, additional separation should be provided between transporting organizations or infuser organizations and: (i) schools; (ii) residentially zoned property; and (iii) other cannabis businesses?

Per Ordinance 20-088, current separation requirements provide that:

- cannabis dispensaries may not be located:
  - i. within 1,000 feet of a school;
  - ii. within 250 feet of residentially zoned property; or

- iii. within one mile of an existing dispensary.
- medical cultivation centers may not be located:
    - i. within 2,500 feet of a school as set forth under the administrative rules implementing the Compassionate Use of Medical Cannabis Program Act; or
    - ii. within 2,500 feet of a residentially zoned property.
3. If infuser organizations are allowed, should they be permitted to co-locate within a cannabis dispensary (subject to the CRTA's requirements)?
4. Facilities which test cannabis are not currently prohibited through the City's cannabis regulations since they are not included as a cannabis business under the CRTA. While such testing facilities require approval and registration by the State's Department of Agriculture, they are not licensed by the State and may include cannabis testing as their primary function or as only a small component of their business. Staff recommends that cannabis testing facilities be regulated in a manner consistent with current zoning allowances for "engineering and testing laboratories" and "other facilities for research and development". These facilities are currently permitted by right in the ORI and RD districts. Staff recommends that the Code be amended to permit these facilities in the Industrial zoning district as well.

It should be noted that after receiving guidance from the City Council on the options above, staff will perform further research and may make additional recommendations. The full draft ordinance will be presented for review to the PZC and then the City Council.

**FISCAL IMPACT:**

No sales tax or direct revenue will be generated from cannabis transporter or infuser organizations.