



Legislation Text

File #: 20-722, Version: 1

CITY COUNCIL AGENDA ITEM

ACTION REQUESTED:

Provide direction on potential adult-use cannabis zoning ordinance components.

DEPARTMENT: Transportation, Engineering and Development

SUBMITTED BY: Allison Laff, AICP, Deputy Director

BOARD/COMMISSION REVIEW:

A public hearing will be held before the Planning and Zoning Commission once amendments to Title 6 (Zoning Ordinance) have been drafted.

BACKGROUND:

Medical Cannabis Regulations

In 2013, the State of Illinois enacted the Compassionate Use of Medical Cannabis Pilot Program Act which became effective on January 1, 2014. Per the adopted act, the cultivation and dispensing of medical marijuana for use in serious diseases became permitted in all municipalities, subject to the limitations of the Act. While municipalities were not permitted to opt-out of having these facilities in their city, they were permitted to adopt stricter zoning regulations than those provided in the Act.

The City adopted zoning regulations for medical cannabis facilities in December 2013 (attached). In addition to the location requirements specified by the State of Illinois, the City added an additional 250 foot separation requirement between these facilities and residential properties. Since the State's regulations only noted that a dispensing organization cannot be located on residential property, this local regulation exceeded State requirements.

For reference, the City currently has one medical cannabis dispensing facility (known as GTI) located on an industrial-zoned property on Quincy Avenue. GTI has informed the City that it will seek approval to co-locate an adult-use cannabis operation at the same location when the zoning is established to do so.

Adult-Use Cannabis

The Cannabis Regulation and Tax Act (CRTA), legalizing and regulating the production, consumption and sale of recreational cannabis in Illinois (also known as "adult-use cannabis"), took effect on January 1, 2020. The CRTA allows adults over the age of 21 to possess and privately use recreational cannabis in limited quantities in Illinois. In the same Act, the state legislature also established six types of cannabis businesses.

While cities cannot prohibit members of the public from using or possessing cannabis within city limits (so long as such use and possession is within the parameters of the CRTA), cities have been

granted the ability, through their zoning authority, to regulate or prohibit the location of cannabis businesses within city limits. This is unlike the 2013 Medical Cannabis Pilot Program Act which did not allow cities to prohibit medical cannabis facilities in their municipality.

The CRTA also removed the prior medical cannabis zoning requirement that a cannabis dispensing organization cannot be located within 1,000 feet of any pre-existing schools and daycares. Accordingly, this separation distance can be kept in the new zoning ordinance to be drafted, or it can be amended or removed altogether.

Naperville Adult-Use Cannabis Discussions

The City of Naperville hosted several discussions between July and September 2019 as to whether adult-use cannabis dispensing facilities should be permitted within Naperville city limits. Over 400 members of the public spoke on this topic over multiple meetings before the City Council. Speakers offered both positions in support and against local adult-use cannabis dispensing facilities.

Prior to proceeding with a final decision to locally opt-in or opt-out, the City Council elected to have an advisory referendum asking whether Naperville should allow the sale of adult-use cannabis within City limits (see referendum question below). This referendum question was added to the March 17, 2020 ballot.

Shall the City of Naperville, in light of state legislation legalizing the possession, consumption, and sale of recreational adult use cannabis, allow the sale of recreational adult use cannabis within its jurisdiction?

Because the referendum question would be asked after the January 1, 2020 date that adult-use cannabis facilities would become legal in Illinois, the City Council passed an ordinance on September 3, 2019 opting out of having any local adult-use cannabis facilities pending the outcome of the March 17 referendum question.

At the February 4, 2020 meeting, City Council discussed establishing a tax on local adult-use cannabis sales in the event that Naperville would become an opt-in municipality following the results of the March 17 referendum question.

Based on a majority of votes being cast in support of allowing the sale of recreational adult use cannabis within the City through the March 17 referendum, City Council passed an ordinance on April 7, 2020 that would allow the City to enact a tax of 3% on cannabis sales effective July 1, 2020. Also at the April 7, 2020 meeting, the City Council directed staff to begin the process of creating zoning regulations for adult-use cannabis facilities with the first step being the June 22, 2020 workshop where the City Council will provide direction on potential adult-use cannabis zoning ordinance components.

DISCUSSION:

Workshop Preparation

In an effort to prepare interested parties for discussions that will occur at the June 22, 2020 workshop, staff created a webpage, video presentation, and non-binding survey which were released to the public on June 3, 2020. Over 1,000 survey responses were submitted between June 3 and June 15, 2020. The survey responses are summarized below for Council's consideration. Written comments received are also attached for the Council's review.

Workshop Discussion Points

Staff recommends using the existing medical cannabis regulations as a starting point for discussions related to the proposed adult-use cannabis regulations. Ideally, the final ordinance will result in one set of regulations for both medical and adult-use facilities, particularly as it will be unlikely that any new stand-alone medical facilities will be proposed moving forward.

Under the CRTA, there are several categories of cannabis business types. Two of them are equivalent to categories already in existence in the City's zoning ordinance for medical cannabis: cultivation centers and dispensing organizations (definitions attached). For these facilities, City Council should provide guidance as to whether the existing medical cannabis regulations should apply to the adult-use cannabis facilities, or if the requirement should be more or less restrictive for adult-use cannabis facilities, as depicted below.

Current Medical Cannabis Zoning	Keep it the Same?	Make it more restrictive?	Make it less Restrictive?
Cultivation Centers - conditional use in Industrial Districts			
Dispensing Organizations - conditional use in Commercial Districts and the Health Services District			
Dispensing Organizations - permitted use in Industrial Districts			
Dispensing Organizations - not located within 250' of residential property			
Dispensing Organizations - not located within 1,000' of pre-existing schools or daycares			
Dispensing Organizations - drive-throughs prohibited			
Dispensing Organizations - retail sales limited to 10% of total sq.ft. of unit			

It should be noted that if the existing medical cannabis dispensing restrictions are applied to adult-use dispensing facilities, there are a limited number of locations citywide in which such a facility could be located, as depicted in the attached map (note: eligible locations may be further reduced if they are adjacent to a daycare facility - these facilities are not reflected on the map).

In addition to the cultivation centers and dispensing organizations reflected on the above table, there are other new types of cannabis businesses under the CRTA that do not have an equivalent category in the existing medical cannabis regulations (see table below). The definitions for these facilities are attached. City Council should provide direction as to whether there is support for these cannabis business types in Naperville, as well as whether caps should be added to regulate the maximum number of those business types that will be permitted in the City.

Cannabis Businesses	OPPOSE	SUPPORT	CAP
Cultivation Centers			
Dispensing Organizations			
Craft Growers			
Processing Organizations			
Transporting Organizations			
Infuser Organizations			
On-Site Consumption			

Finally, the 2019 CRTA specifies that a minimum separation distance of 1,500 feet must be provided between adult-use cannabis dispensing facilities; this requirement will be added to Naperville's adult-use cannabis zoning regulations. City staff is also collecting research regarding appropriate parking requirements for adult-use dispensaries, which will be included in the proposed zoning regulations that will be presented to the Planning and Zoning Commission.

Survey Input

A survey seeking input on potential cannabis zoning regulations was posted on the City's website on June 3, 2020; a press release was issued the same day. Interested parties were encouraged to watch the video presentation prior to completing the survey and 1,010 survey responses were submitted. It is important to note that the survey was not restricted to Naperville residents/property owners. Furthermore, while the survey format cannot guarantee that only one response was submitted per person, the survey was designed to only permit one survey response per IP address. As an additional measure to minimize duplicate responses, the survey requested that the respondent include their name and email address (768 of the 1,010 responses included this information).

Overall, the survey is intended to provide the City Council with additional public feedback, but is not intended to be statistically significant or binding. The survey format mirrors the feedback being sought from the City Council through the workshop (as described above). The survey results can be found below.

	SAME	MORE RESTRICTIVE	LESS RESTRICTIVE	TOTAL
Cultivation CentersConditional Uses in Industrial Districts (RD, ORI, I)	28.69% 278	33.54% 325	37.77% 366	969
Dispensing OrganizationsConditional Uses in Business Districts (B2, B3, and HS)	19.59% 191	35.69% 348	44.72% 436	975
Dispensing OrganizationsPermitted by right in Industrials Districts (RD, ORI, I)	23.86% 230	33.40% 322	42.74% 412	964
Dispensing OrganizationsNot located within 250' of any property zoned or used for residential	27.18% 265	40.00% 390	32.82% 320	975
Dispensing Organizations Not located within 1,000 feet of a pre-existing school or daycare	32.83% 323	42.17% 415	25.00% 246	984
Dispensing OrganizationsDrive- through facilities prohibited	25.05% 243	30.82% 299	44.12% 428	970
Dispensing OrganizationsRetail sales limited to 10% of the total square footage of the unit	14.71% 145	31.54% 311	53.75% 530	986

	OPPOSE	SUPPORT	CAP	TOTAL
Cultivation Centers	36.29% 356	54.64% 536	9.07% 89	981
Craft Growers	36.28% 357	57.72% 568	6.00% 59	984
Processing Organizations	35.81% 352	55.75% 548	8.44% 83	983
Transporting Organizations	35.74% 351	55.70% 547	8.55% 84	982
Infuser Organizations	36.44% 356	56.50% 552	7.06% 69	977
On-Site Consumption(May be permitted only at retail tobacco stores (designated areas within tobacco stores may be specified), and at dispensing organizations)	47.45% 466	44.70% 439	7.84% 77	982

Should there be a cap on the number of dispensing organizations?

ANSWER CHOICES		RESPONSES
Yes	49.55%	437
No	50.45%	445
TOTAL		882

Next Steps

Following City Council direction received at the June 22, 2020 workshop, staff will draft an adult-use cannabis zoning amendment to the City Code. This amendment will be presented to the Planning and Zoning Commission (PZC) for a public hearing. Following the PZC vote on the proposed ordinance, the ordinance will be presented to the City Council for a first reading and will return to the City Council at a subsequent meeting date for a final vote.

FISCAL IMPACT:

City Council will continue to discuss the use of the new cannabis tax revenue collected; however, those discussions will not be included within the zoning review.