

To: ORC
From: Mark Eyerman
Subject: Marijuana Revisions
Date: October 14, 2021

Here is a start on addressing the issues that Kris raised at the end of the last committee meeting. The following are some ideas for addressing some of those issues. The Committee needs to discuss these:

1. **Outdoor Cultivation** – If the City wants to prohibit the outdoor cultivation in some or all types of cultivation facilities we could simply amend the definitions of Marijuana Cultivation Facility to add language “in a fully enclosed structure” to the appropriate definitions.
2. **Personal Cultivation** – For better or worse it is my understanding of the adult-use law that municipalities cannot regulate personal use or cultivation. If the ORC wants to pursue this I think we need to start with a discussion with Jon Pottle as to what if anything the City might do to address this concern.
3. **Submission of the State License Application** – The idea behind requiring the submission of the state application was to provide the City with information about who the people are that are involved in an application and what their background is. Many communities require that applicants submit this type of information so the community knows who is proposing marijuana facilities. So a threshold question is – does the City want to have access to this type of information about the applicant(s)? The state is supposed to be reviewing who the applicants for state licenses are and verifying their background. If the answer is no, then it can simply be deleted as a submission requirement. If the answer is yes then we need to discuss the best way to get this information. There must be a way for the City to access the state application file.
4. **Proximity to Protected Locations** – Given the uncertainty about the alternatives, we can simply amend 10.29.1 to require that a marijuana establishment be located 1000 feet from a protected use measured property line to property line. Essentially this draws a 1000 foot “doughnut” around the lot on which the protected use is located.
5. **Retail proximity** – Maybe we should look at two issues – how the separation distance is measured and what the distance should be. One approach would be to change the way the distance is measured to property line to property line in the same way the distances is measured around propertied locations. This again would create a doughnut around each lot on which a retail marijuana facility is located. This would be simpler and would extend the prohibition out further. Kris can you draw doughnuts at 500’ – 750’ – 1000 feet around the lots on which

the existing retail establishments are located so we can look at them at the meeting? This would eliminate quibbling over how the distance is measured.

6. Submission Requirements – A marijuana establishment that does not otherwise trigger Planning Board or Site Plan Review is subject to Planning Board Review. There is a provision in 6.2.3.2.8 dealing with a change of use of an existing building that does trigger Planning Board review that probably should still apply to marijuana establishments. We could amend Section 6.3.1 to create an automatic waiver of certain submission requirements for the establishment or expansion of a marijuana establishment that does not otherwise trigger Planning Board or Site Plan Review. Here is a first cut at the submission requirements that could be automatically waived in this situation:

- a. 6.3.2.7.1
- b. 6.3.2.7.2 except items 5, 6, 7, and 8 if applicable
- c. 6.3.3

7. Use Categories – Here are a couple of thoughts

- a. The basis for the City's categories of use should be consistent with the categories set up in the two state laws. The adult-use rules use the terminology from the adult-use law and hopefully the new medical rules will reflect the categories of licenses in the medical law. So my sense is that we shouldn't make major changes until the new medical use law and rules are adopted.
- b. We could merge Marijuana Retail Store, Medical Marijuana Registered Caregiver Retail Store, and Medical Marijuana Dispensary into a single use in the use table since they are treated the same way in terms of where they are allowed. We could keep the definitions of those three uses and define the new use that would go into the table as one of those three uses. Maybe we call the new use something like Adult or Medical Use Marijuana Retail Store.
- c. Testing and production facilities are already combined.
- d. We could combine the Medical Marijuana Cultivation Facilities into one use again since they are treated the same in terms of where they are allowed. And we could define the new use as Tier 1 or Tier 2 medical cultivation facilities.
- e. We could also combine the marijuana cultivation facilities (adult use) into one use and define it as a Tier 3 or 4 adult-use cultivation facility.