

## Subject: First Reading - An Ordinance Amending Section 153.156 of the Zoning Code Regarding Intoxicating THC Retail Establishments

<b>Meeting Date:</b> Monday, February 27, 2022	
<b>Submitted/Presented by/Department:</b> Melissa Houtsma - Community Development	
<b>Action Type</b>	
<input type="checkbox"/> Consent Item	<input checked="" type="checkbox"/> Discussion/Direction
<input type="checkbox"/> Public Hearing	<input type="checkbox"/> Informational Only
<input type="checkbox"/> Action/Motion	<input type="checkbox"/> Report
<input checked="" type="checkbox"/> Resolution/Ordinance	<input type="checkbox"/> Other:
<b>Action</b>	
Review and approve the first reading of the amendment to city code section 153.156 regarding intoxicating THC retail establishments.	
<b>Background</b>	
<p>In response to the newest language at the state legislature (HF 100) city staff has drafted new language to comply with the more limited zoning restrictions outlined in the state language.</p> <p>Staff is proposing the following restrictions for Intoxicating THC retail establishments,</p> <ul style="list-style-type: none"> <li>• Non-specialty stores (intoxicating THC products are less than 10% of floor area and/or sales) are permitted in the B2, B3, and B4 zoning districts, and</li> <li>• Specialty establishments (intoxicating THC products are more than 10% of floor area and/or sales) are limited to the B2, B3, and B4 zoning districts and require a conditional use permit as well as the minimum distance requirements for, <ul style="list-style-type: none"> <li>○ Schools (establishment must be at least 1,000 ft. from a school).</li> </ul> </li> </ul> <p>Previous language proposed by staff included minimum distance requirements, but was previously 1,500 ft. However, since the newest proposed language at the state level sets a maximum distance limit to 1,000 ft. staff has reduced this to match the state's language.</p>	
<u>Planning Commission Review</u>	
<p>The Planning Commission met in regular session to review the proposed change and held a public hearing on the item.</p> <ul style="list-style-type: none"> <li>• Lisa McCormick came forward to speak and stated that she thought it made more sense for the city to wait to adopt language until after the state has finalized their language, but also stated that if the city language does go forward she would like to see a clear definition of school included in the language.</li> </ul> <p>The Commission discussed the following items:</p>	

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- Inclusion of definitions, specifically for schools, within the zoning ordinance language.
  - The Commission voted to recommend clearly defining what a school is and then to also have that definition in the zoning ordinance in the case of the state not allowing the cities to have licensing restrictions and regulations.
- Addition of B2 – Neighborhood Business district to the allowable zones and reasoning behind it.
  - Staff clarified that based on discussions at the City Council level, it was expressed that there was interest in adding that zoning district to the allowable area of uses.
- Reason for taking action to pass an ordinance now rather than waiting for the state to finalize their language.
  - Staff stated that while it is likely the city language will have to be amended again at a later date, it is better to have something in place in the interim to have something established rather than leaving everything open. Especially considering there are multiple parties within the city looking for direction and clarification for next steps.
- The proposed threshold of 1,000 ft., why and how that number was established for the recommendation.
  - Staff stated that the proposed distance of 1,000 ft. is what is called out in the state language. While it is less than the originally proposed 2,000 ft. that was included in the previous version of the ordinance, staff believes it is better to cast a wider net and then narrow if/when appropriate rather than opening things up and trying to close them back up again.
  - Commissioners discussed the idea of lowering the minimum distance requirement, however no motion was passed to formally recommend this.
- Other uses currently in the code that have minimum distancing requirements and how they compare to the 1,000 ft.
  - Staff detailed there are a few uses that are required to be set back a certain distance from Robert Street. However some comparable uses include,
    - Bingo Halls have to be 600 ft., Pawn Shops have to be 800 ft., and Alternative Financial Establishments have to be 800 ft. from residential zoned properties, licensed child day care facilities, a public or private educational facility, and churches.

Ultimately, the Commission voted 7-1 (*Dahlquist as the nay vote*) to recommend approval of the amendment regarding specialty THC product retailers with the additional recommendation that a definition for school be added to the zoning code.

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<b>Attachments</b>	
Planning Commission Memo Buffer Map Draft Ordinance	
<b>Previous Relevant Actions</b>	
Proposed ordinance was reviewed by the Planning Commission at the February 21 <sup>st</sup> , 2023 meeting.	
<b>Alternatives</b>	
If City Council is not satisfied with the proposed language as written, please advise city staff of the desired changes and recommendations.	
<b>Financial</b>	
Budgeted: <input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No Financial Impact
Fund: N/A	
Department: N/A	
Account: N/A	
Amount: N/A	