



# Memorandum

To: Planning and Zoning Commission  
From: Krysti J. Barksdale-Noble, Community Development Director  
CC: Bart Olson, City Administrator  
Jason Engberg, Senior Planner  
Date: October 15, 2019  
Subject: **PZC 2019-23 Adult-Use Cannabis**  
Zoning Ordinance Text Amendment

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## **Summary:**

Proposed text amendment to Title 10, Chapter 6, Permitted and Special Uses (Zoning Ordinance) of the Yorkville Municipal Code, regulating the zoning of adult-use cannabis business establishments, specifically the time, place, manner, number and minimum distance limitations between such uses and locations the City deems sensitive such as existing schools, parks, religious institutions and residential land uses in response to recently adopted Illinois legislation.

## **General Background:**

In March 2014, the City adopted an ordinance identifying “medical cannabis cultivation centers” and “medical cannabis dispensary organizations” as special uses in the M-1 Manufacturing Districts in response to the state legislation approving these operations throughout Illinois as part of the Compassionate Use of Medical Cannabis Pilot Program Act which went into effect on January 1, 2014. The law established the cultivation and dispensing of cannabis for medicinal purposes to patients with serious medical conditions. As originally adopted, the law had a sunset clause that required the legislature to renew the program or create a new law or it will expire four years from the date it went into effect.

On June 25, 2019, the State of Illinois extended and expanded upon the Compassionate Use of Medical Cannabis Pilot Program and approved the recreational use of cannabis by adults via Public Act 101-0027<sup>1</sup>. Effective on January 1, 2020, the Cannabis Regulation and Tax Act, legalizes the private consumption and possession of cannabis for Illinois residents over 21 years of age by setting a maximum possession limit of 30 grams of cannabis flower, 500 milligrams of THC cannabis-infused products, and 5 grams of cannabis concentrate. Non-residents are permitted to possess half those amounts. Additionally, the Cannabis Regulation and Tax Act permanently preserves the legalization of medical cannabis in Illinois, allows the home growing of cannabis only by medical cannabis home participants, and provides for the state licensure and regulation of a variety of adult-cannabis business establishments. This includes cannabis craft growers, cannabis processors, cannabis cultivation centers, cannabis dispensaries, cannabis infusers and cannabis transporter organizations.

Since the current zoning ordinance does not expressly identify these specific cannabis business establishments as permitted or special uses, they are deemed prohibited per Section 10-3-10. *However*, these uses could arguably fall under the umbrella of other permitted uses listed in the zoning ordinance such as “Retail Store” “Pharmacy/Drugstore” or “Greenhouse/Nursery”. Therefore, to avoid undo confusion, staff has prepared draft local zoning regulations for adult-use cannabis business establishments based upon standards set forth in both the Compassionate Use of Medical Cannabis Pilot Program Act and the Cannabis Regulation and Tax Act, as well as recommendations from the Illinois Municipal League (IML) and research of other local communities.

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<sup>1</sup> <http://www.ilga.gov/legislation/publicacts/101/101-0027.htm>

## **Zoning Considerations:**

Section 55-25 of the recently approved Cannabis Regulation and Tax Act establishes that local governments may adopt reasonable ordinances regulating the time, place, manner, and number of cannabis establishment operations, including minimum distance limitations between cannabis businesses and locations it deems “sensitive” (e.g. schools, parks, religious institutions, etc.) through a special use process. Local units of government may also permit or prohibit on-premise consumption of cannabis at or in a cannabis business establishment.

Currently, the City’s Zoning Ordinance permits medical cannabis cultivation and dispensaries as special uses within the M-1 Limited Manufacturing District, as this district tends to be isolated from residential uses. Additional separation between medical cannabis cultivation sites and dispensaries and other non-compatible land uses are also provided in the current ordinance as follows:

Cultivation Centers must be located 2,500 feet from pre-existing pre-schools, elementary or secondary schools, day care centers, group day cares, public parks and religious institutions.

Dispensaries must be located 1,000 feet from pre-existing pre-schools, elementary schools, day care centers or group day care public parks and religious institutions.

As adopted, municipalities have two (2) options for regulating adult-use cannabis businesses through their zoning ordinance. The municipality can either (1) out-right prohibit cannabis business establishments or (2) authorize cannabis business establishments as conditional or special uses. The City Council at a meeting held on October 8<sup>th</sup> requested staff prepare recommendations for permitting adult-use cannabis establishments as special uses in certain zoning districts. Below is an explanation of how adult-use cannabis businesses can be regulated by zoning.

### *Adult-Use Cannabis Business Zoning:*

As set forth in the Cannabis Regulation and Tax Act, local regulation of authorized adult-use cannabis businesses is allowed through zoning as a “conditional” (special) use. In addition to the special use authority, municipalities have the option of allowing on-site consumption of cannabis and the co-location of craft growers, infusers, processors, and dispensaries. Adult-use craft growers are small scale operations that cultivates, dries, cures and packages cannabis. Adult-use infuser operations incorporates cannabis or cannabis concentrate into products (e.g. oils, foods, personal-care products, etc.). Adult-use dispensaries sell cannabis leaves, cannabis seeds, cannabis-infused products and paraphernalia. Adult-use transporter is a business that is licensed by the State of Illinois to carry by vehicle cannabis products from the grower, infuser, processor to the dispensaries.

Municipalities are allowed to also establish minimum distance limitations between these adult-use cannabis businesses and other cannabis businesses, liquor establishments, schools, daycare centers, nursing homes or other uses the local government deems sensitive. Specific standards when considering special use applications for adult-use cannabis businesses should include: the impact of the proposed use to existing properties in the vicinity; co-tenancy; hours of operation; traffic generation; site design and signage; and compliance with established distances to other sensitive land uses (i.e., schools, daycares, etc.).

### Research of Local Communities

Staff has researched and contacted several Illinois municipalities to determine how other communities are deciding to regulate adult-use cannabis businesses through zoning. Most of the communities are in the proposal phase and not have approved final ordinances. The table below provides a summary of those findings:

Municipality/ Local Government	Prohibit/Permit	Distance Requirements	On-Premise Consumption Allowed (Y/N)
Kendall County	Permitted (Special Use in M-1, M-2 and B-3 Districts)	<p>Craft Growers – 1,000 feet from schools, daycare, residential care homes, pre-existing residential zoned or used land (unless owned by craft grower), pre-existing forest preserve, public park or place of worship.</p> <p>Cultivation Centers – 2,500 feet from schools, daycare, residential care homes, pre-existing residential zoned or used land, pre-existing forest preserve, public park or place of worship.</p> <p>Dispensaries – 1,000 feet from schools, daycare, residential care homes, pre-existing forest preserve, public park or place of worship. <u>250 feet from pre-existing property zoned or used for residential purposes.</u></p> <p>Infusers – 1,500 feet from schools, daycare, residential care homes, pre-existing forest preserve, public park or place of worship. <u>250 feet from pre-existing property zoned or used for residential purposes.</u></p> <p>Processor - 1,500 feet from schools, daycare, residential care homes, pre-existing forest preserve, public park or place of worship. <u>250 feet from pre-existing property zoned or used for residential purposes.</u></p> <p>Transporter - 1,500 feet from schools, daycare, residential care homes, pre-existing forest preserve, public park or place of worship. <u>250 feet from pre-existing property zoned or used for residential purposes.</u></p>	No
Owego	Permitted (Special Use in Manufacturing and Business Districts)	100 feet from schools and no proposed minimum distances from residential uses.	No
Montgomery	Permitted (Special Use in Manufacturing and Business Districts)	Minimum distances are still being discussed.	No
Sugar Grove	Prohibited	N/A	N/A
Plano	Undetermined	Minimum distances are still being discussed, with a likeliness to not have any buffer between dispensaries and residential land uses due to proximity of residential land uses and US 34.	Undetermined

Naperville	Prohibited <sup>2</sup>	N/A	N/A
Plainfield	Prohibited	N/A	N/A
Lombard	Permitted (Out-Right Permitted in Office, Industrial and Some Commercial; Special Use in neighborhood/corridor commercial and downtown)	None	No

Proposed Zoning Provisions:

Based upon the local governance provision of the Cannabis Regulation and Tax Act and a survey of nearby communities, **it is staff’s recommendation to amend the Zoning Ordinance to allow adult-use cannabis businesses as special uses within the B-3 General Business, A-1 Agricultural, M-1 Limited Manufacturing and M-2 General Manufacturing zoning districts as follows:**

**PROPOSED DEFINITIONS**

**ADULT-USE CANNABIS BUSINESS ESTABLISHMENT:**

An adult-use cannabis cultivation center, craft grower, processing organization, infuser organization, dispensing organization or transporting organization.

**ADULT-USE CANNABIS CRAFT GROWER:**

A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to cultivate, dry, cure and package cannabis and perform other necessary activities to make cannabis available for sale at a dispensing organization or use at a processing organization, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.

**ADULT-USE CANNABIS CULTIVATION CENTER:**

A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to cultivate, process, transport and perform necessary activities to provide cannabis and cannabis-infused products to licensed cannabis business establishments, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.

**ADULT-USE CANNABIS DISPENSING ORGANIZATION:**

A facility operated by an organization or business that is licensed by the Illinois Department of Financial and Professional Regulation to acquire cannabis from licensed cannabis business establishments for the purpose of selling or dispensing cannabis, cannabis-infused products, cannabis seeds, paraphernalia or related supplies to purchasers or to qualified registered medical cannabis patients and caregivers, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.

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<sup>2</sup> As of September 196, 2019, Naperville has temporarily banned the sale of recreational cannabis until results from an upcoming referendum are reviewed.



Use Category	Zoning Districts															
	Ag	Open Space		Residential						Business				Manufacturing		
	A-1	OS-1	OS-2	E-1	R-1	R-2	R-2D	R-3	R-4	O	B-1	B-2	B-3	B-4	M-1	M-2
ADULT-USE CANNABIS TRANSPORTING ORGANIZATION OR TRANSPORTER:	-	-	-	-	-	-	-	-	-	-	-	-	-	-	S	S

P = Permitted use	S = Special use	- = Not permitted use
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**PROPOSED DISTANCE & ZONING REQUIREMENTS**

- Adult-Use Cannabis Craft Grower: In those zoning districts in which an Adult-Use Cannabis Craft Grower may be located, the proposed facility must comply with the following:

  - Facility may not be located within **500 feet** of the property line of a pre-existing public or private nursery school, preschool, primary or secondary school, day care center, day care home, residential care home, public parks or religious institutions, regardless of corporate boundary. Commercial/Trade schools shall not be classified as a public or private school for purposes of this Section.
  - Facility may not be located within **250 feet** of the property line of a pre-existing property zoned or used for residential purposes, unless in the A-1 Zoning District where the residential use is owned by the same owner as the Adult-Use Cannabis Craft Grower, regardless of corporate boundary.
  - Facility may not conduct any sales or distribution of cannabis other than as authorized by the Act.
  - Adult-Use Cannabis Craft Growers may co-locate with an Adult-Use Dispensing Organization or an Adult-Use Cannabis Infuser Organization, or both, only on properties zoned within the M-1 or M-2 districts.
  - For purposes of determining required parking, Adult-Use Cannabis Craft Grower shall be classified as “Industrial Uses” per Section 10-16-3 Off-Street Parking Requirements, provided, however, that the City may require that additional parking as part of the Special Use conditions.
  
- Adult-Use Cannabis Cultivation Center: In those zoning districts in which an Adult-Use Cannabis Cultivation Center may be located, the proposed facility must comply with the following:

  - Facility may not be located within **500 feet** of the property line of a pre-existing public or private nursery school, preschool, primary or secondary school, day care center, day care home, residential care home, public parks or religious institutions, regardless of corporate boundary. Commercial/Trade schools shall not be classified as a public or private school for purposes of this Section.
  - Facility may not be located within **250 feet** of the property line of a pre-existing property zoned or used for residential purposes, regardless of corporate boundary.
  - Facility may not conduct any sales or distribution of cannabis other than as authorized by the Act.

- For purposes of determining required parking, Adult-Use Cannabis Craft Grower shall be classified as “Industrial Uses” per Section 10-16-3 Off-Street Parking Requirements, provided, however, that the City may require that additional parking as part of the Special Use conditions.
3. Adult-Use Cannabis Dispensing Organization: In those zoning districts in which an Adult-Use Cannabis Dispensing Organization may be located, the proposed facility must comply with the following:
- Facility may not be located within **500 feet** of the property line of a pre-existing public or private nursery school, preschool, primary or secondary school, day care center, day care home, residential care home, public parks or religious institutions, regardless of corporate boundary. Commercial/Trade schools shall not be classified as a public or private school for purposes of this Section.
  - Facility may not be located in a dwelling unit or within **250 feet** of the property line of a pre-existing property zoned or used for residential purposes, regardless of corporate boundary.
  - Adult-Use Cannabis Dispensing Organizations shall have a maximum gross floor area of 5,000 square feet.
  - At least 75% of the floor area of any tenant space occupied by a dispensing organization shall be devoted to the activities of the dispensing organization as authorized by the Act, and no dispensing organization shall also sell food or alcohol for consumption on the premises within the same tenant space.
  - Adult-Use Cannabis Dispensing Organizations are prohibited from having drive-through facilities.
  - Adult-Use Cannabis Dispensing Organizations are prohibited from utilizing e-commerce delivery service platforms.
  - Facility may not conduct any sales or distribution of cannabis other than as authorized by the Act.
  - For purposes of determining required parking, said facilities shall be classified as “Commercial Uses” per Section 10-16-3 Off-Street Parking Requirements, provided, however, that the City may require that additional parking as part of the Special Use conditions.
4. Adult-Use Cannabis Infuser Organization: In those zoning districts in which an Adult-Use Cannabis Infuser Organization may be located, the proposed facility must comply with the following:
- Facility may not be located within **500 feet** of the property line of a pre-existing public or private nursery school, preschool, primary or secondary school, day care center, day care home, residential care home, public parks or religious institutions, regardless of corporate boundary. Commercial/Trade schools shall not be classified as a public or private school for purposes of this Section.
  - Facility may not be located in a dwelling unit or within **250 feet** of the property line of a pre-existing property zoned or used for residential purposes, regardless of corporate boundary.
  - At least 75% of the floor area of any tenant space occupied by an infusing organization shall be devoted to the activities of the infusing organization as authorized by the Act. Facility may not conduct any sales or distribution of cannabis other than as authorized by the Act.
  - Adult-Use Cannabis Infuser Organizations may co-locate with an Adult-Use Dispensing Organization or an Adult-Use Cannabis Craft Grower Organizations, or both, only on properties zoned within the M-1 or M-2 districts. In such instances, the maximum gross

floor area dedicated to the Dispensing Organization shall be 5,000 square feet and at least 75% of the floor area of the overall tenant space must be devoted to the activities authorized by the Act.

- For purposes of determining required parking, said facilities shall be classified as “Industrial Uses” per Section 10-16-3 Off-Street Parking Requirements, provided, however, that the City may require that additional parking as part of the Special Use conditions.

5. Adult-Use Cannabis Processing Organization: In those zoning districts in which an Adult-Use Cannabis Processing Organization may be located, the proposed facility must comply with the following:

- Facility may not be located within **500 feet** of the property line of a pre-existing public or private nursery school, preschool, primary or secondary school, day care center, day care home, residential care home, public parks or religious institutions, regardless of corporate boundary. Commercial/Trade schools shall not be classified as a public or private school for purposes of this Section.
- Facility may not be located in a dwelling unit or within **250 feet** of the property line of a pre-existing property zoned or used for residential purposes, regardless of corporate boundary.
- At least 75% of the floor area of any tenant space occupied by a processing organization shall be devoted to the activities of the processing organization as authorized by the Act. Facility may not conduct any sales or distribution of cannabis other than as authorized by the Act.
- For purposes of determining required parking, said facilities shall be classified as “Industrial Uses” per Section 10-16-3 Off-Street Parking Requirements, provided, however, that the City may require that additional parking as part of the Special Use conditions.

6. Adult-Use Cannabis Transporting Organization: In those zoning districts in which an Adult-Use Transporting Organization may be located, the proposed facility must comply with the following:

- Facility may not be located within **500 feet** of the property line of a pre-existing public or private nursery school, preschool, primary or secondary school, day care center, day care home, residential care home, public parks or religious institutions, regardless of corporate boundary. Commercial/Trade schools shall not be classified as a public or private school for purposes of this Section.
- Facility may not be located in a dwelling unit or within **250 feet** of the property line of a pre-existing property zoned or used for residential purposes, regardless of corporate boundary.
- The transporting organization shall be the sole use of the tenant space in which it is located. Facility may not conduct any sales or distribution of cannabis other than as authorized by the Act.
- For purposes of determining required parking, said facilities shall be classified as “Industrial Uses” per Section 10-16-3 Off-Street Parking Requirements, provided, however, that the City may require that additional parking as part of the Special Use conditions.

## **PROPOSED ADDITIONAL RESTRICTIONS & CONDITIONS**

1. Number of Adult-Use Cannabis Establishments – Per Section 55-25 of the Cannabis Regulation and Tax Act, local governments may regulate the number of cannabis establishment operations within its jurisdiction. **Staff also recommends limiting the**



**maximum number of any type of adult-use cannabis establishments to no more than one (1) per organization type (i.e. Craft Grower, Cultivation Center, Dispenser, Infuser, Processor and Transporter organization).**

2. Business Hours – Per Section 15-70 of the Cannabis Regulation and Tax Act, a dispensing organization may operate between the hours of 6 a.m. and 10 p.m. local time. **Staff is proposing a business operational time of 10 a.m. to 8 p.m. during the week and Saturday, and 12 p.m. to 5 p.m. on Sundays.**
3. On-Premise Consumption – Per Section 55-25 of the Cannabis Regulation and Tax Act, local governments may regulate on-premises consumption of cannabis at or in a cannabis business establishment. **Staff recommends prohibiting on-premise consumption of cannabis products in all identified cannabis business establishments.**
4. Signage – Per Section 55-20 of the Cannabis Regulation and Tax Act, adult-use cannabis establishments are limited in the manner in which they advertise and promote their products. **Therefore, staff recommends the following signage regulations:**
  - a. Recreational cannabis dispensaries shall be limited to one (1) wall-mounted sign per business.
  - b. All adult-use cannabis establishments shall be prohibited from having electronic message board signs.
  - c. Signage for adult-use cannabis establishments shall not contain cannabis imagery such as leaves, plants, smoke, paraphernalia, or cartoonish imageries.
5. Special Use Application Requirements – **staff proposes that all applications seeking special use approval for an adult-use cannabis establishment shall provide the following information:**
  - a. Applicant name and the business name of the proposed adult-use cannabis establishment for which the special use is sought, including addresses, telephone numbers and e-mail addresses of (1) sole proprietors; (2) business entities with financial interest in the business, and (3) all officers, directors, partners, managers and owners. A post office box may not be submitted as the address of the applicant.
  - b. Copy of licensure or registration that the organization is authorized to conduct an adult-use cannabis business establishment in the State of Illinois.
  - c. The commonly known address, permanent index number (PIN) and legal description of the proposed location of the adult-use cannabis establishment.
  - d. Property ownership information. Written statement that the applicant owns or has under contract the property of the proposed adult-use cannabis establishment.
  - e. The proposed hours of operation.
  - f. Copy of a business plan to be kept on file with the Yorkville Police Department and confidential to the extent permitted by law, including but not limited to the following:
    - i. Proposed number of employees.
    - ii. A description of the products and services that the proposed adult-use cannabis establishment will offer.
    - iii. Description or statement of training and education that will be provided to the proposed adult-use cannabis dispensary agents/staff.
    - iv. A security plan that will describe how the proposed use will address concerns related to inventory tracking and prevention of theft; measures to control customer overflow and access to restricted areas; employee restrictions to limited access areas and restricted area; and video surveillance/alarm system.

- g. Aerial map of the subject property identifying the current zoning and land uses of all surrounding parcels within 500 feet.
  - h. Site Plan including, but not limited to, nearest utility connection, points of access, internal site circulation, lighting/photometric plan, landscape plan, off-street parking, trip generation calculations
  - i. Floor plans and elevations of proposed adult-use cannabis establishment, including the location of enclosed and secured loading and trash handling and disposal facilities.
  - j. Signage Plans.
  - k. Information on co-location with another adult-use cannabis establishment.
6. **Standards for Special Use for an Adult-Use Cannabis Facility** – In addition to the general requirements for Special Use approval provided in Section 10-4-9 of the Zoning Ordinance, **staff is proposing these additional special use standards to be considered:**
- a. Impact of the proposed facility on the existing or planned uses located within the vicinity of the subject property.
  - b. Suitability of the proposed facility and it’s co-location with another adult-use cannabis business establishment.
  - c. Adequate waste management plan for the storage, security and disposal of discarded cannabis products and materials.
  - d. Distance to existing adult-use cannabis establishment.

Staff Comments:

Based upon discussion at the October 8<sup>th</sup> City Council meeting, staff is providing four (4) maps indicating possible locations for adult-use cannabis establishments as follows:

1. 500-foot buffer from all “sensitive” land uses such as: pre-existing property zoned or used for residential purposes, public or private nursery school, preschool, primary or secondary school, day care center, day care home, residential care home, public parks or religious institutions;
2. 2,500-foot buffer from all “sensitive” land uses such as: pre-existing property zoned or used for residential purposes, public or private nursery school, preschool, primary or secondary school, day care center, day care home, residential care home, public parks or religious institutions;
3. 1,000-foot buffer from all “sensitive” land uses such as: pre-existing property zoned or used for residential purposes, public or private nursery school, preschool, primary or secondary school, day care center, day care home, residential care home, public parks or religious institutions;
4. 500-foot buffer from pre-existing public or private nursery school, preschool, primary or secondary school, day care center, day care home, residential care home, public parks or religious institutions **and** 250-foot buffer from pre-existing property zoned or uses for residential purposes (*recommended by staff*).

**Proposed Motion for Amendments**

*In consideration of testimony presented during a Public Hearing on November 13, 2019, the Planning and Zoning Commission recommends approval to the City Council of a request to amend the United City of Yorkville Zoning Ordinance as presented by staff in a memorandum dated October 15, 2019 and further subject to {insert any additional conditions of the Planning and Zoning Commission} ...*

Attachments:

1. Adult-Use Cannabis Fact Sheet
2. *Marijuana and The Zoning Board* – The Commissioner article
3. Current Medical Cannabis Ordinance No. 2014-08
4. Map – Potential Adult-Use Cannabis Cultivation Center Locations with 500 ft. buffer
5. Map – Potential Adult-Use Cannabis Cultivation Center Locations with 2,500 ft. buffer
6. Map – Potential Adult-Use Cannabis Dispensary Locations with 1,000 ft. buffer
7. Map – Potential Adult-Use Cannabis Dispensary Locations with 500 ft. and 250 ft. buffer
8. Public Hearing Notice