

# PLANNING & ZONING COMMISSION

**NOVEMBER 14, 2019**

Applicant

City of Geneva

Request

Text Amendments to Chapter 2, Chapter 3, Chapter 4A, Chapter 6, Chapter 7, and Chapter 11 of Title 11 (Zoning) of the Geneva City Code related to the regulation of recreational and medical cannabis uses.

Recommendation

Staff will provide a recommendation at the conclusion of the public hearing.

Staff Liaison

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**AGENDA ITEM 5A**

**ZONING ORDINANCE  
TEXT AMENDMENTS  
CANNABIS USES**

## REQUEST

Text Amendments to Chapter 2 (Definitions), Chapter 3 (General Zoning Provisions), Chapter 4A (Downtown Districts), Chapter 6 (Office and Commercial Districts), Chapter 7 (Office Research and Industrial Districts), and Chapter 11 (Off-Street Parking and Loading; Traffic and Access Regulations) of Title 11 (Zoning) of the Geneva City Code related to the regulation of recreational and medical cannabis uses.

## BACKGROUND

The State of Illinois recently passed the Cannabis Regulation and Tax Act (Public Act 101-0027) which legalized possession and consumption of cannabis by adults 21 and over for recreational use. The law goes into effect on January 1, 2020. Under the Act, municipalities have the ability to regulate local cannabis uses. Municipalities can choose to ban cannabis uses OR allow cannabis uses and regulate them through zoning.

On September 23, 2019, the Committee of the Whole of the City Council held a policy discussion regarding the City's options for the local regulation of cannabis uses. At the conclusion of the discussion, the Committee directed staff to schedule a public hearing and prepare text amendments related to the regulation of cannabis uses for consideration by the Planning and Zoning Commission. Links to the minutes, video, and PowerPoint presentation from the policy discussion are provided at the end of this report.

Prior to the recently passed Cannabis Regulation and Tax Act, the State of Illinois passed the Compassionate Use of Medical Cannabis Program Act. Initially passed as a pilot program in 2014, it has since been made a permanent program. The City of Geneva did not pass any amendments to the Zoning Ordinance to address medical cannabis uses. Therefore, staff is recommending amendments to address medical cannabis uses in addition to the recreational cannabis uses being considered.

## PROPOSED AMENDMENTS & STAFF COMMENTS

### Chapter 2 – Definitions

The following definitions are proposed to be added to Section 11-2-2 (Definitions of Words and Terms) of the Zoning Ordinance. These uses are the types of cannabis uses that are licensed and regulated under the Compassionate Use of Medical Cannabis Program Act and the Cannabis Regulation and Tax Act. The proposed definitions are consistent with the Acts.

**Cannabis Business Establishment:** A cannabis cultivation center, craft grower, processing organization, infuser organization, dispensing organization, or transportation organization.

**Cannabis Craft Grower, Recreational:** 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.

**Cannabis Cultivation Center, Medical:** A facility operated by an organization or business that is registered by the State of Illinois Department of Agriculture to perform necessary activities to provide only registered medical cannabis dispensing organizations with usable medical cannabis.

**Cannabis Cultivation Center, Recreational:** A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to cultivate, process, transport, and perform other necessary activities to provide cannabis and cannabis-infused products to licensed cannabis business establishments, per the Cannabis Regulation and Tax Act.

**Cannabis Dispensing Organization, Medical:** A facility operated by an organization or business that is registered by the State of Illinois Department of Financial and Professional Regulation to acquire medical cannabis from a registered cultivation center for the purpose of dispensing cannabis, paraphernalia, or related supplies and educational materials to registered qualifying patients.

**Cannabis Dispensing Organization, Recreational:** 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. A facility that only acquires and dispenses medical cannabis to registered medical cannabis patients shall be considered a Cannabis Dispensing Organization, Medical, as defined herein.

**Cannabis Infuser Organization, Recreational:** A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to directly incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis-infused product, per the Cannabis Regulation and Tax Act.

**Cannabis Processing Organization, Recreational:** A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to either extract constituent

chemicals or compounds to produce cannabis concentrate or incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis product, per the Cannabis Regulation and Tax Act.

**Cannabis Transporting Organization, Recreational:** An organization or business that is licensed by the Illinois Department of Agriculture to transport cannabis on behalf of a cannabis business establishment or community college licensed under the Community College Cannabis Vocation Training Pilot Program, per the Cannabis Regulation and Tax Act.

**Staff Comments:** The proposal, as described in the following sections of this report, is to allow each of the cannabis uses defined above as a Special Use in the City of Geneva. If the Planning and Zoning Commission recommends and the City Council decides not to allow any of the cannabis uses, it is still necessary to define them. Defining each use will remove any ambiguity about whether a certain type of cannabis use is permitted. By defining a use and not listing it as a permitted or special use in a zoning district, it is clear that the use is not allowed in the district. If the use is defined and not listed as a permitted or special use in any zoning district, it is clear that the use is not allowed in the City of Geneva. If not defined, cannabis uses would be considered under general use categories and would be allowed anywhere similar uses are permitted. For example, a cannabis dispensing organization would be considered “Retail Sales” and would be permitted in any district permitting “Retail Sales”. Additionally, if the City should decide to change zoning regulations pertaining to any of these uses in the future, or should an applicant propose an amendment in regards to any of these uses, the process will be simpler if the uses are already established and defined in the ordinance.

### Chapter 3 – General Zoning Provisions

Proposed is the addition of Section 11-3-14: Cannabis Business Establishments. This Section establishes standards that cannabis business establishments would need to meet for the City of Geneva to consider a Special Use application.

#### **SECTION 11-3-14: CANNABIS BUSINESS ESTABLISHMENTS**

Cannabis business establishments, where permitted by Special Use, shall comply with the following requirements and regulations:

- A. Approval of a Special Use for a cannabis business establishment shall be conditional upon the applicant providing the City of Geneva with documentation proving receipt of all applicable licenses required by the State of Illinois.

**Staff Comments:** Cannabis business establishments must provide the City with proof of all required State licenses prior to operating.

- B. Consumption of cannabis and cannabis-infused products on the premises of any cannabis business establishment as defined in the Cannabis Regulation and Tax Act shall be prohibited.

**Staff Comments:** Proposed is to prohibit on premise consumption of cannabis at a cannabis business establishment.

- C. A recreational cannabis craft grower shall not be located within 1,500 feet of another recreational craft grower or a cultivation center, medical or recreational.

**Staff Comments:** This is a requirement of the Cannabis Regulation and Tax Act. By incorporating it as a use standard, the City will check for compliance during review of the Special Use application. As detailed in the following Sections, recreational cannabis craft growers are only proposed to be allowed as a Special Use in the I1 Light Industrial and I2 General Industrial Districts. While the Act allows municipalities to limit the number of craft growers within its borders, it is staff's opinion that a limit is not necessary given this required separation from other craft growers and cultivation centers. The attached map regarding the zoning for craft growers illustrates a 1,500-foot buffer within each industrially zoned area. A cap on the number of craft growers is not necessary since there cannot be a proliferation in any of the areas with this separation requirement.

- D. A cannabis dispensing organization, medical or recreational, shall not be located within 1,500 feet of the property line of a pre-existing cannabis dispensing organization.

**Staff Comments:** This is a requirement of the Cannabis Regulation and Tax Act. By incorporating it as a use standard, the City will check for compliance during review of the Special Use application. As detailed in the following Sections, dispensing organizations are proposed to be allowed as a Special Use in the D-CM Commercial Mixed-Use District, D-RSCM Residentially Scaled Commercial Mixed-Use District, B1 Business District, B4 Business District, B5 Business District, I1 Light Industrial District and I2 General Industrial District. While the Act allows municipalities to limit the number of dispensing organizations within its borders, it is staff's opinion that a limit is not necessary given this required separation from other dispensing organizations. The attached map regarding the zoning for dispensing organizations illustrates a 1,500-foot buffer within each area where a dispensing organization is proposed to be allowed as a Special Use. A cap on the number of dispensing organizations is not necessary since there cannot be a proliferation in any of the areas with this separation requirement.

- E. A cannabis cultivation center, recreational or medical, may not be located within 2,500 feet of the property line of a pre-existing public or private preschool or elementary or secondary school or day care center, day care home, group day care home, part day childcare facility, or residential zoning district, specifically the R1, R2, R3, R4, R5, R6, R7, RE, RR, R-PS, D-SFMR, D-SFHR, D-MHR, and D-MFR districts.

**Staff Comments:** This is a requirement of the Compassionate Use of Medical Cannabis Program Act. It is not a requirement of the Cannabis Regulation and Tax Act. It is proposed to apply the same separation requirements for both medical and recreational cannabis cultivation centers. As shown in the attached buffer map for cannabis cultivation centers, the only opportunity for a cultivation center to locate in Geneva is in the northeast industrial park. While the Act allows municipalities to limit the number of cultivation centers within its borders, imposing a limit for the City of Geneva is not necessary since there cannot be a proliferation with this separation requirement.

- F. A cannabis business establishment shall not be located within 150 feet of the property line of a pre-existing public or private preschool or elementary or secondary school or day care center, day care home, group day care home, part day childcare facility, or residential zoning district, specifically the R1, R2, R3, R4, R5, R6, R7, RE, RR, R-PS, D-SFMR, D-SFHR, D-MHR, and D-MFR districts.

**Staff Comments:** The Cannabis Regulation and Tax Act and Compassionate Use of Medical Cannabis Program Act allow municipalities to impose additional distance requirements between cannabis business establishments and locations deemed to be sensitive, such as residential areas, day cares, and schools. A buffer distance of 150 feet between cannabis business establishments and these uses provides a reasonable separation (approximately ½ of a City block) while preserving opportunities for cannabis business establishments to locate in the City of Geneva. As shown in the attached buffer maps, increasing the separation distance beyond 150 feet begins to challenge the ability to locate a cannabis business establishment in the City of Geneva.

**Staff Comments:** Requiring a Special Use for cannabis use establishments will allow the City to review and regulate the operation of each individual business. The Special Use review process includes a public hearing held by the Planning and Zoning Commission with mailed notification to surrounding property owners within 500 feet. Section 11-14-4(F) of the Zoning Ordinance establishes nine (9) standards for Special Uses. An affirmative finding of fact for each standard must be made for the City to approve the Special Use. The nine (9) standards are as follows

1. The proposed use at the specified location is consistent with the comprehensive plan.
2. The proposed building or use will not diminish the value of adjacent and nearby properties.
3. The proposed use at the specified location will not substantially or unduly increase traffic, traffic congestion and on-street parking demand in the immediate vicinity of the proposed use and in the area affected by traffic generated by the proposed use.
4. The proposed use has been designed to provide for adequate ingress and egress to minimize potential vehicle conflicts and congestion in public streets.
5. The proposed building or use will not adversely affect or change the character of the area in which it is located.
6. The proposed use at the specified location will not adversely affect the use and development of adjacent and nearby properties in accordance with the regulations of the district in which they are located. The location, size and height of proposed buildings and other structures, and the operation of the use will not adversely affect the use and development or hinder the appropriate development of adjacent and nearby properties.
7. Adequate utility, drainage, parking and other necessary facilities to service the proposed use will be provided and that such utility, drainage, parking and other necessary facilities will not adversely affect the use, development and value of adjacent and nearby properties.
8. The proposed building, other structures and use comply with any and all regulations, conditions or requirements of the city applicable to such building, structure or use.

9. That the exterior architectural appeal and function of any proposed structure will not be so at variance with either the exterior architectural appeal and functional plan of the structures already constructed or in the course of construction in the immediate neighborhood or the character of the applicable district to cause a substantial depreciation in property values in the neighborhood.

**Staff Comments:** In addition to satisfying the proposed requirements and the nine (9) Special Use standards, there are operational rules for cannabis dispensing organizations set forth in Section 15-70 of the Cannabis Regulation and Tax Act. Any business receiving a dispensary license from the State must comply with these provisions. Notable examples include:

- All cannabis is to be obtained by a registered Illinois grower/infuser/dispensary.
- Cannot sell alcohol.
- Can only accept deliveries into a designated restricted access area, no deliveries permitted through public areas.
- Must be compliant with building codes and local zoning requirements.
- May operate between the hours of 6:00 a.m. and 10:00 p.m.
- Cannot produce/manufacture cannabis.
- Cannabis from grower/infuser/transporter must be pre-packaged and labeled in accordance with the Act.
- Cannot sell to individuals under 21 years of age.
- Cannot operate drive-through windows or vending machines.
- No delivery to customers.
- Must have working video surveillance.
- Must have working point-of-sale equipment.
- Must have working State cannabis electronic verification system.
- At least two people must be working at all times.
- Cannot be located within 1,500 feet of the property line of a pre-existing dispensary.
- Cannot sell cannabis plants.

#### Chapter 4A – Downtown Districts

It is proposed to add medical and recreational cannabis dispensing organizations to the Table of Permitted and Special Uses for the Downtown Districts. Specifically, medical and recreational cannabis dispensing organizations are proposed as to be allowed as a Special Use in the D-CM Commercial Mixed-Use District and the D-RSCM Residentially Scaled Commercial Mixed-Use District.

Use	D-SFMR	D-SFHR	D-MHR	D-MFR	D-RSCM	D-CM	D-IM
<b>COMMERCIAL &amp; OFFICE</b>							
Cannabis Dispensing Organization, Medical (09)					S	S	
Cannabis Dispensing Organization, Recreational (09)					S	S	
<b>P = Permitted Use</b> <b>S = Special Use</b> <b>(#) = Parking Class per Section 11-11A-6</b> <b>*Not allowed on parcels fronting on 3rd Street.</b> <b>**Allowed on the first floor for parcels fronting on 3rd Street, if floor area does not exceed 40% of the total gross first floor area of the principal use, and the retail use is located in the front of the building facing 3rd Street.</b>							

**Staff Comments:** A cannabis dispensing organization may be compatible with other retail uses permitted in the downtown commercial districts. Requiring a Special Use for cannabis dispensing organizations will allow the City to review and regulate the operation of each individual business. The proposed 150-foot buffer from schools, day cares, and residentially zoned properties removes the D-IM Light Industrial Mixed-Used District from consideration for cannabis dispensing organizations or other cannabis business establishments.

Chapter 6 – Office and Commercial Districts

It is proposed to add medical and recreational cannabis dispensing organizations to the list of Special Uses in the B1, B4, and B5 Business Districts. Specifically, the Sections listed below are proposed to be amended by adding the terms “Cannabis Dispensing Organization, Medical” and “Cannabis Dispensing Organization, Recreational”, inserted in alphabetical order.

Section 11-6B-3: Special Uses (B1 Business District)

Cannabis Dispensing Organization, Medical (09)

Cannabis Dispensing Organization, Recreational (09)

Section 11-6F-3: Special Uses (B4 Business District)

Cannabis Dispensing Organization, Medical (09)

Cannabis Dispensing Organization, Recreational (09)

Section 11-6G-3: Special Uses (B5 Business District)

Cannabis Dispensing Organization, Medical (09)

Cannabis Dispensing Organization, Recreational (09)

**Staff Comments:** A cannabis dispensing organization may be compatible with other retail uses permitted in B1, B4, and B4 Business Districts. Requiring a Special Use for cannabis dispensing organizations will allow the City to review and regulate the operation of each individual business. The proposed 150-foot buffer from schools, day cares, and residentially zoned properties removes the B3E Business District from consideration for cannabis dispensing organizations.

#### Chapter 7 – Office Research and Industrial Districts

It is proposed to add each type of cannabis business establishment to the list of Special Uses in the I1 Light Industrial District and I2 General Industrial District. Specifically, the Sections listed below are proposed to be amended by adding each term, inserted in alphabetical order.

##### Section 11-7B-3: Special Uses (I1 Light Industrial District)

- Cannabis Craft Grower, Recreational (27)
- Cannabis Cultivation Center, Medical (27)
- Cannabis Cultivation Center, Recreational (27)
- Cannabis Dispensing Organization, Medical (09)
- Cannabis Dispensing Organization, Recreational (09)
- Cannabis Infuser Organization, Recreational (27)
- Cannabis Processing Organization, Recreational (27)
- Cannabis Transporting Organization, Recreational (30)

##### Section 11-7B-4: Special Uses (I2 General Industrial District)

- Cannabis Craft Grower, Recreational (27)
- Cannabis Cultivation Center, Medical (27)
- Cannabis Cultivation Center, Recreational (27)
- Cannabis Dispensing Organization, Medical (09)
- Cannabis Dispensing Organization, Recreational (09)
- Cannabis Infuser Organization, Recreational (27)
- Cannabis Processing Organization, Recreational (27)
- Cannabis Transporting Organization, Recreational (30)

**Staff Comments:** Cannabis business establishments may be compatible with other manufacturing, processing, packaging, warehousing, and transportation uses permitted in the City's industrial districts. Requiring a Special Use for cannabis dispensing organizations will allow the City to review and regulate the operation of each individual business.

Chapter 11 – Off-Street Parking and Loading; Traffic and Access Regulations

It is proposed to amend Table 1 – Off-Street Parking Classes & Off-Street Parking Requirement in Section 11-11A-6: Parking Spaces and Design Requirements to add each type of cannabis business establishments. The proposed parking classes and parking requirements are as follows:

Parking Class	Uses (Permitted or Conditional)	Required Spaces
9	Cannabis Dispensing Organization, Medical Cannabis Dispensing Organization, Recreational	4/1,000 sq. ft. of gross floor area
27	Cannabis Craft Grower, Recreational Cannabis Cultivation Center, Medical Cannabis Cultivation Center, Recreational Cannabis Infuser Organization, Recreational Cannabis Processing Organization, Recreational	1/800 sq. ft. plus 1/250 sq. ft. office area
30	Cannabis Transporting Organization, Recreational	Spaces as required by City Council upon recommendation of the Planning & Zoning Commission

**Staff Comments:** The proposed parking requirement of 4 spaces per 1,000 square feet of gross floor area for dispensing organizations is the same as the requirement for general retail sales uses and shopping centers. It is staff's opinion that the proposed parking requirement would be appropriate for the sale of medical or recreational cannabis. The proposed parking ratio of 1 space per 800 square feet plus 1 space per 250 square feet of office area for craft growers, cultivation centers, infusers, and processing organizations is the same as the requirement for other industrial uses that include manufacturing, processing, packaging, and warehousing. It is staff's opinion that the proposed parking requirement would be appropriate for similar uses involving cannabis. The proposal to have the Planning and Zoning Commission and City Council determine the required parking for cannabis transportation organizations is consistent with how the required parking is determined for other transportation uses.

## **OTHER MUNICIPALITIES' RESPONSE TO THE ACT**

Under the Cannabis Regulation and Tax Act, Illinois municipalities may choose to ban recreational cannabis business establishments or allow them and regulate them through zoning. The table on the following page summarizes the position various communities have taken on the issue. Like Geneva, many communities are in the midst of discussion. Some have proposed zoning amendments that are moving through the public hearing process. Others have held only conceptual conversation with their Council or Board. Relatively few communities have taken legislative action to formally ban cannabis business establishments or adopt zoning regulations to allow them.

Based on staff's research, at least five municipalities have passed ordinances allow recreational cannabis business establishments. For example, St. Charles has adopted regulations to allow one cannabis dispensing organization on each side of the community by Special Use. Additionally, the dispensing organization is required to be at least 250 feet away from schools, day cares, and residentially zoned property. Elburn adopted regulations to allow one dispensing organization by Special Use with a 150-foot separation from schools and day cares. Both St. Charles and Elburn prohibit on-site consumption.

At least six municipalities have taken action to prohibit cannabis business establishments. The table below also lists municipalities, which based on reports of Council/Board discussions, are publicly leaning one way or the other.

Final Consideration to Permit	Final Consideration to Prohibit	Considering to Permit	Considering to Prohibit
Brookfield	Berkeley	Buffalo Grove	Bloomington
Crystal Lake	Bolingbrook	Carbondale	Lake Zurich
Deerfield	Clarendon Hills	Darien	Long Grove
St. Charles	Downers Grove	DeKalb	Winnetka
Elburn	Frankfort	Des Plaines	
	Highland Park		

## SUMMARY

As described in the previous sections of this report, the proposed amendments to the Zoning Ordinance are as follows:

- To add cannabis use categories to the ordinance and define them.
- To permit cannabis dispensing organizations as a Special Use in the D-CM, D-RSCM, B1, B4, and B5 Business Districts
- To permit all cannabis business establishments as a Special Use in the I1 and I2 Industrial Districts.
- To establish parking requirements for each type of cannabis business establishment.
- To establish use standards for cannabis business establishments including the prohibition of on premise consumption of cannabis, separation requirements from other cannabis business establishments, and separation requirements from schools, day cares, and residentially zoned properties.

## RECOMMENDATION

Staff will provide a recommendation at the conclusion of the public hearing.

## REVIEW/APPROVAL PROCESS: NEXT STEPS\*

1. November 25, 2019 – City Council consideration of request

*\*This timeline is provided for informational purposes only, exact dates are subject to change.*

## ATTACHMENTS

- Link the PowerPoint presentation provided during the Committee of the Whole’s policy discussion on September 23, 2019 regarding cannabis uses: <https://www.geneva.il.us/DocumentCenter/View/8101/Adult-Use-Cannabis-Business-Establishments>
- Link to video of the Committee of the Whole’s policy discussion on September 23, 2019 regarding cannabis uses: <https://www.youtube.com/watch?v=iHdpU5MiVwQ&feature=youtu.be>
- Link to minutes from the Committee of the Whole’s policy discussion on September 23, 2019 regarding cannabis uses: [https://www.geneva.il.us/AgendaCenter/ViewFile/Minutes/\\_09232019-1497](https://www.geneva.il.us/AgendaCenter/ViewFile/Minutes/_09232019-1497)

- Link to Just the Facts: Cannabis in Geneva:  
<https://www.geneva.il.us/DocumentCenter/View/8226/Just-the-Facts-QA>
- Link to Adult-Use Cannabis Resources from the Illinois Municipal League:  
<https://www.iml.org/file.cfm?key=16334>
- Link to full text of Cannabis Regulation & Tax Act (Public Act 101-0027):  
<http://www.ilga.gov/legislation/publicacts/101/101-0027.htm>
- Zoning Map for Cannabis Business Establishments – 150 ft buffer from schools, day cares, and residentially zoned properties
- Zoning Map for Cannabis Craft Growers – 1500 ft buffer from other craft growers or cultivation centers
- Zoning Map for Cannabis Dispensing Organizations - 1500 ft buffer from other dispensing organizations
- Zoning Map for Cannabis Cultivation Centers – 2500 ft buffer from schools, day cares, and residentially zoned properties