

GENERAL INFORMATION

Applicant: City of Bloomington

Request: Consider an ordinance to:

- Establish licensing requirements for medical marijuana businesses,
- Allow medical marijuana distribution facilities as conditional uses in B-2, B-4, C-2, C-3, C-5, CR-1, CX-2, or LX zoning districts, and;
- Create performance standards for medical marijuana distribution facilities and to establish related standards.

CHRONOLOGY

City Council Action: 1/26/15 - City Council adopted a one-year moratorium on medical marijuana facilities (City Code Section 21.505 (c))

Planning Commission Agenda: 5/14/15 – Study session discussion of medical marijuana draft ordinance

City Council Agenda: 7/6/15 – Study session discussion of medical marijuana draft ordinance

Planning Commission Agenda: 9/17/15 – Public hearing to consider medical marijuana proposed ordinance

BACKGROUND

On January 26, 2015, The Bloomington City Council adopted a one-year moratorium on medical marijuana manufacturing facilities or dispensaries applications so City staff could study the need for amendments or additions to the City’s official controls to protect the public health, safety and welfare from the potential negative impacts of such land uses.

Marijuana remains a controlled substance that is illegal under federal law. When the Minnesota Legislature approved the THC Therapeutic Research Act, Minnesota Statutes §§152.21 -152.37 (the “Act”) it recognized the many practical difficulties this status creates when opening the door to medical marijuana distribution facilities. The Act and the state rules implementing the Act currently are very strict and only allow marijuana in a liquid, pill or vapor form for a limited number of qualified medical conditions. It also limits the current number of state distribution facilities to eight. No facility is currently located in Bloomington, although there was early interest in doing so. Any expansion of the number of facilities is likely to rekindle interest in a Bloomington location.

It is likely that the Commissioner of Health will expand the number of qualifying medical conditions to include chronic pain, which will greatly increase the number of patients qualified for medical marijuana and likely require the authorization of many additional distribution facilities. It is also predictable that other features in the Act may soften over time, potentially to include distribution of medical marijuana in other forms, some of

which may also be more suitable for recreational use. The only manner in which the City can ensure that the state's current limitations as to form of marijuana, security requirements, and other operational characteristics remain constant is to adopt a licensing ordinance and land use performance standards to codify these requirements.

Concerns about Medical Marijuana

The federal prohibition on marijuana creates the following challenges for the state and its cities:

- Physicians, nurse practitioners, and physicians' assistants can only certify a qualifying medical condition, they cannot prescribe marijuana under their licensing restrictions;
- The distribution facility functions as a stand-alone clinic where patients must be examined by a pharmacist, who then determines the type of medical marijuana and the dosage. Many patients will be vulnerable due to their medical conditions.
- Credit card companies will not authorize transactions dealing in marijuana; hence the clinic operates as a 'cash only' business.
- Insurance companies will not cover medical marijuana and it is expensive ranging from \$55 to \$85 per gram; totaling an average of \$500 per cash transaction.
- Due to the uncovered, high cost of medical marijuana there has developed a black market for stolen medical marijuana which is then sold to qualified patients and others at a lower cost.

These factors result in serious security concerns for patients going to and from the distribution facility, an increased risk of employee theft of the product, an increased risk of burglary and non-employee theft from the building.

The proposed licensing ordinance and land use performance standards attempt to address these concerns. City staff recommends a licensing ordinance in addition to zoning restrictions, because only by licensing can the City inspect and enforce day to day operational requirements at medical marijuana businesses. This report summarizes the proposed ordinance. The full language of the proposed ordinance is attached.

PROPOSED LICENSING REQUIREMENTS

In addition to the screening of license applicants and their employees in the same manner as the City screens other closely regulated businesses, the ordinance contains the following provisions, many of which mirror current state rules. Those that go beyond state rules mirror the City's other operational requirements for businesses with a propensity to attract criminal activity, such as pawnbrokers. The following is a summary of the licensing requirements:

- Records of transaction. This assists the City and a distribution facility in deterring or determining employee theft, as well identifying customers as State registered medical marijuana patients.
- Hours of operation. The proposed ordinance sets hours of operation from 7 a.m. to 7 p.m. These hours attempt to strike a balance between providing customer convenience and curbing late night hours – as late night hours are associated with increased risk of criminal activity.
- Security guards/ CCTV/ Recording requirements/ Alarm system. These mirror current state rules established by the commissioner of health. Local codification ensures that the requirements remain enforceable should the commissioner change the rules.

- Building location/ Lighting. Maximize the ‘eyes on the street’ concept and minimize the risk of criminal activity.
- Inconspicuous display/Exterior signage. Attempt to make the use of the building as a marijuana distribution facility less noticeable. These also mirror the current state rules.
- ATM. This is proposed, so patients do not have to carry cash to the facility.
- Inspection of Items. This is so that the licensing authority and police can ascertain compliance with state law and City ordinances restricting the type of product sold, its display and operability of the required security measures.
- No paraphernalia or other merchandise. This restricts distribution facilities from selling other forms of marijuana, illegal drugs, tobacco and drug delivery devices (vaporizers) not exclusive to the delivery of medical marijuana. Delivery devices and supplies needed for the ingestion of medical marijuana are allowed.
- Limit on number of licensed facilities. Limits the number of facilities to one per 100,000 Bloomington residents or parts thereof. For example, if the population of Bloomington grew to 150,000 residents only one distribution facility would be allowed.
- Miscellaneous provisions. Are consistent with the City’s other licensing ordinances.

PROPOSED LAND USE PERFORMANCE STANDARDS

Medical Marijuana Land Uses

There are three land use types associated with the medical marijuana industry, as stipulated by the State of Minnesota legislature in the THC Therapeutic Research Act, Minn. Stat. §§152.21:

- **Manufacturing facilities:** Where medical marijuana is cultivated, harvested, manufactured and packaged.
- **Laboratories:** Where medical marijuana samples are tested to ensure compliance with state manufacturing standards.
- **Distribution facilities:** Where medical marijuana is sold and distributed to patients on the State’s medical marijuana register.

The proposed ordinance only sets land use performance standards for distribution facilities.

Manufacturing facilities are not addressed, because they are currently prohibited by virtue of their status as a commercial agriculture use. City Code Section 21.302.06(d) prohibits commercial agriculture in all Bloomington zoning districts due to potential negative impacts on neighboring properties, and because these uses are frequently lower intensity, lower employment, lower value uses. Staff is not proposing to change the commercial agriculture prohibition in this ordinance.

Laboratories are not addressed, because conversations with Minnesota Department of Health staff indicate that laboratories will only have very small amounts of medical marijuana product on site for testing purposes and therefore do not have the potential to create negative impacts on neighboring properties.

Proposed Distribution Facility Standards

The land use regulations and performance standards proposed for medical marijuana distribution facilities are summarized in this section. Some regulations and standards are repeated to reinforce the licensing standards listed in Chapter 14.

- Allows distribution facilities as a conditional use in the following districts:
 - B-2, B-4, C-2, C-3, C-5, CR-1, CX-2, and LX (all zoning districts where pharmacies are currently allowed as stand-alone uses).
- Prohibits:
 - The sale of any products other than medical marijuana within a dispensary.
 - The sale of non-medical marijuana.
- Requires all distribution facilities be sited at least 1,000 feet from any existing K-12 schools (also a State requirement).
- Allows only one distribution facility per 100,000 Bloomington residents or fraction thereof.
- Sets requirements for multiple security measures such as electronic controlled access systems, building location, and lighting.
- Requires one parking space per 285 square feet of distribution facility gross floor area (which matches medical office uses).

The attached maps show where a distribution facility would be allowed under the proposed performance standards.

PUBLIC OUTREACH

Notice of the public hearing on the proposed amendments to the City Code was published in the Sun Current, the official newspaper. Notice will also be sent via e-mail to registered users of the “Zoning Ordinance Updates” e-subscribe group. The proposed ordinance was also sent to Minnesota Medical Solutions, LeafLine Labs, and the Minnesota Department of Health for their review. No comments were received from any of the three organizations. Lastly, the proposed amendments and supporting information contained in the staff report will be posted on the City website prior to the October 19, 2015 public hearing.

PLANNING COMMISSION FEEDBACK

At the Planning Commission public hearing on September 19, 2015 the commission discussed the ordinance, but did not offer any changes to the proposed text. The commission recommended approval for the Ordinance as attached.

RECOMMENDATION

Staff recommends the following motion:

In Case 10000G-15, I move to adopt the Ordinance as attached to the staff report to amend Chapters 14, 19, and 21 of the City Code.

ORDINANCE NO. 2015-27

AN ORDINANCE AMENDING CHAPTER 14 OF THE CITY CODE TO ADD LICENSING REGULATIONS AND FEES APPLICABLE TO MEDICAL MARIJUANA (CANNABIS) DISTRIBUTION FACILITIES AND AMENDING CHAPTERS 19 AND 21 OF THE CITY CODE TO CREATE STANDARDS AND DEFINITIONS FOR MEDICAL MARIJUANA DISTRIBUTION FACILITIES AND ESTABLISHING THEM AS A CONDITIONAL USE IN THE B-2, B-4, C-2, C-3, C-5, CR-1, CX-2, AND LX ZONING DISTRICTS TO BE REVIEWED AND ACTED UPON BY THE CITY COUNCIL.

The City Council of the City of Bloomington, Minnesota ordains:

Section 1. That Chapter 14 of the City Code is hereby amended by deleting those words that are contained in brackets [] and adding those words that are underlined, to read as follows:

CHAPTER 14

LICENSES AND PERMITS

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ARTICLE I.

GENERAL PROVISIONS

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SEC. 14.03. FEES.

Except as otherwise stated in this Code, the fees for the various licenses and permits shall be as hereinafter stated.

License/Permit	Required by Section	Annual Fee
Medical Marijuana Distribution Facility	14.278	\$3,000

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ARTICLE IV. BUSINESS LICENSES AND REGULATIONS

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Division L. Medical Marijuana Distribution Facilities

SEC. 14.276. [RESERVED] FINDINGS AND PURPOSE STATEMENT.

(a) **Findings.** The City Council makes the following findings regarding the need to regulate medical marijuana distribution facilities within the City:

- (1) Since 1970, federal law has prohibited the manufacture and possession of marijuana as a Schedule I drug under 21 U.S.C. 801, et seq. Because of this, credit card companies will not authorize medical marijuana transactions and therefore the medical marijuana business must consist of primarily cash transactions.
- (2) Medical marijuana customers must, under the state Act, be certified by a health care practitioner as having a medical condition that has been determined by the Commissioner under the Act to be a 'qualifying condition'; however, under federal law, physicians cannot legally prescribe medical marijuana. Thus customers must visit the medical marijuana distribution facility to be seen by a pharmacist who determines the type and dosage of medical marijuana appropriate for their condition.
- (3) Medical marijuana customers with 'qualifying conditions' will include individuals with severely compromised immune systems or other significant health conditions, making them extremely vulnerable targets for thieves seeking either the cash they carry for the product or the product itself. The Commissioner has indicated that the field of 'qualifying conditions' is likely to expand to cover chronic pain and that this expansion will greatly increase the number of persons seeking medical marijuana.

- (4) Medical marijuana is relatively expensive with cash transactions in the range of several hundred dollars per month's supply. Few, if any, health insurance companies provide coverage for medical marijuana. Because of this high out-of-pocket cost, there has developed in other states authorizing medical marijuana distribution a black market for stolen product.
- (5) To safeguard the public health, safety and welfare, and to help stabilize costs associated with the regulation of the medical marijuana distribution industry, it is necessary to closely regulate its method of operation and also to restrict the number of medical marijuana distribution facilities permitted to conduct business within the community.

(b) **Purpose Statement.** The City Council enacts this Division of the City Code in order to further the following objectives:

- (1) The prevention of medical marijuana distribution facilities from being used as facilities for the commission of crime.
- (2) The protection of vulnerable individuals carrying either large amounts of cash or valuable medical marijuana product.
- (3) The promulgation of safety and security standards to be adhered to by the medial marijuana distribution industry.
- (4) To separate youth and sensitive uses from the medial marijuana distribution industry.
- (5) To protect property values, prevent blight, and protect the public health, safety and general welfare.
- (6) To stabilize the City's costs of regulating the medial marijuana distribution industry, particularly as it expands with the Commissioner determining a broader range of 'qualifying conditions' under the Act.

SEC. 14.277. [RESERVED] DEFINITIONS.

The following words and terms when used in this Division shall have the following meanings unless the context clearly indicates otherwise:

Act - the THC Therapeutic Research Act, Minn. Stat. §§152.21 – 152.37.

Commissioner - the Minnesota Commissioner of Health.

Issuing Authority - the City of Bloomington License Section.

Laboratory - a fixed-based or mobile structure, a person, corporation, or other entity, including a government or tribal entity, that examines, analyzes or tests samples.

Medical marijuana - any species or form of the genus cannabis plant or any mixture or preparation of them, including whole plant extracts and resins that is delivered only in the form of (1) liquid, but not limited to oil; (2) pill; or (3) vaporized delivery method with use of liquid or oil, but which does not require the use of dried leaves or plant form that has been approved for distribution to the public for medical reasons by the Commissioner under the Act.

Medical marijuana distribution facility - the location at which, or the premises in which, a person engages in the business of distributing medical marijuana under the Act.

Patient - a Minnesota resident who has been diagnosed with a qualifying medical condition by a health care practitioner and who has otherwise met any other requirements under the Act to participate in the registry program.

Person - one or more natural persons; a partnership, including a limited partnership; a corporation, including a foreign, domestic, or nonprofit corporation; a trust; a political subdivision of the state; or any other business organization.

Registry program - the patient registry program established by the Act.

SEC. 14.278. [RESERVED] LICENSE REQUIRED.

No person shall exercise, carry-on, or be engaged in the trade or business of medical marijuana distributor within the City unless such person is currently licensed under this Division.

SEC. 14.279. [RESERVED] LICENSE APPLICATION.

In addition to any information that may be required by the State of Minnesota under the Act, every application for a license under this Division shall be made on a form supplied by the Issuing Authority and shall contain the following information:

- (1) **Individual Applicants.** If the applicant is a natural person:
 - (a) The name, place and date of birth, street resident address, and phone number of the applicant.
 - (b) Whether the applicant has ever used or has been known by a name other than the applicant's name, and if so, the name or names used and information concerning dates and places where used.
 - (c) The name of the business if it is to be conducted under a designation, name, or style other than the name of the applicant and a certified copy of the certificate as required by Minnesota Statutes, Section 333.01.

- (d) The street addresses at which the applicant has lived during the preceding five (5) years.
 - (e) The type, name, and location of every business or occupation in which the applicant has been engaged during the preceding five (5) years and the name(s) and address(es) of the applicant's employer(s) and partner(s), if any, for the preceding five (5) years.
 - (f) Whether the applicant has ever been convicted of a felony, crime, or violation of any ordinance other than a traffic ordinance. If so, the applicant shall furnish information as to the time, place, and offense for which convictions were had.
 - (g) The physical description of the applicant.
 - (h) The name of the store or general manager(s), proprietor(s), or other agent(s) in charge of the business and all information concerning each manager, proprietor, or agent required in subpart (1) of this Section.
- (2) **Partnership Applicants.** If the applicant is a partnership:
- (a) The name(s) and address(es) of all general and limited partners and all information concerning each general partner required in subpart (1) of this Section.
 - (b) The name(s) of the managing partner(s) and the interest of each partner in the business.
 - (c) A true copy of the partnership agreement shall be submitted with the application. If the partnership is required to file a certificate as to a trade name pursuant to Minnesota Statutes, Section 333.01, a certified copy of such certificate shall be attached to the application.
 - (d) The name of the store or general manager(s), proprietor(s), or other agent(s) in charge of the business and all information concerning each manager, proprietor, or agent required in subpart (1) of this Section.
- (3) **Corporate Applicants.** If the applicant is a corporation or other organization:
- (a) The name of the corporation or business form, and if incorporated, the state of incorporation.
 - (b) A true copy of the Certificate of Incorporation, Articles of Incorporation or Association Agreement, and By-laws shall be attached to the application. If the applicant is a foreign corporation, a Certificate of Authority as required by Minnesota Statutes, Section 303.06, shall be attached.
 - (c) The name of the store or general manager(s), proprietor(s), or other agent(s) in charge of the business and all information concerning each manager, proprietor, or agent required in subpart (1) of this Section.
 - (d) A list of all persons who control or own an interest in excess of five percent (5%) in such organization or business form or who are officers of the corporation or business form and all information concerning said persons required in subpart (1) above.
- (4) **All Applicants.** For all applicants:
- (a) Whether the applicant holds a current medical marijuana distribution license from the City or any other governmental unit and proof that the applicant is validly registered and approved by the Commissioner under the Act.
 - (b) Whether the applicant or any individual, partner, or corporate officer having an ownership interest in the business has previously had a federal, state or local license of any kind denied, revoked or suspended by any governmental unit, identifying that governmental unit.
 - (c) The location of the business premises.
 - (d) The legal description of the premises to be licensed.
 - (e) Whether all real estate and personal property taxes that are due and payable for the premises to be licensed have been paid, and if not paid, the years and amounts that are unpaid.
 - (f) Whenever the application is for premises either planned or under construction or undergoing substantial alteration, the application shall be accompanied by a set of preliminary plans showing the design of the proposed premises to be licensed. If the plans or design are on file with the City of Bloomington Building and Inspection Division, no plans need be submitted with the Issuing Authority.
 - (g) Such other information as the City Council or Issuing Authority may require.
 - (h) The applicant's hours of operation, on-site management and parking facilities.
 - (i) An executed data privacy advisory and consent form authorizing the release of criminal history information from each of the individuals, partners and corporate officers having an interest in the business.
 - (j) Proof of Worker's Compensation Insurance as required by Minnesota Statutes, Section 176.182 and the applicant's Minnesota business tax identification number, as required by Minnesota Statutes, Section 270.72.

- (k) The names and addresses of all persons, other than the applicant, who have any ownership, in whole or in part, in the business, buildings, premises, fixtures, furniture, stock in trade to be licensed; the nature of such ownership; the amount thereof; and terms for payment or other reimbursement. Those with an ownership shall include, but not be limited to, any lessees, lessors, mortgagees, mortgagors, lenders, lien holders, trustees, trustors and persons who have cosigned notes or otherwise loaned, pledged, or extended security for any indebtedness of the applicant.
- (l) The website and electronic mail address for the business and each of the individuals, partners, and corporate officers having an interest in the business.

SEC. 14.280. [RESERVED] LICENSE FEES.

(a) Application Fee.

- (1) The license application fee shall be as set forth in Section 14.03 of this Code. The fee paid shall be refunded in accordance with Section 14.15 of this Code, except that the fee shall be refunded on a monthly basis.
- (2) The license application fee shall be paid in full before the application for a license shall be accepted. Upon rejection of any application for a license or upon withdrawal of any application before City Council approval, the license fee shall be refunded in full to the applicant except where rejection is for a willful misstatement in the license application.
- (3) When a new license application is submitted as a result of incorporation by an existing licensee and the ownership, control, and interest in the license are unchanged, no additional fee shall be required.

(b) Investigation Fee.

- (1) An applicant for any license under this Division shall deposit with the Issuing Authority at the time an original application is submitted \$500 to cover the costs involved in verifying the license application and to cover the expense of any investigation needed to assure compliance with this Division and the Issuing Authority may request up to \$1,500 to cover any additional actual investigation costs in verifying the license application.
- (2) At any time that an additional investigation is necessary because of a change of the managing partner, store or general manager, proprietor or other person in charge of the licensed premises of its corporate structure, the licensee shall pay an additional nonrefundable investigation fee of \$100.00.

SEC. 14.281 [RESERVED] LICENSE APPLICATION EXECUTION.

All applications for a license under this Division shall be signed and sworn to. If the application is that of a natural person, it shall be signed and sworn to by such person; if that of a corporation, by an officer thereof; if that of a partnership, by one of the general partners; and if that of an unincorporated association, by the manager or managing officer thereof.

SEC. 14.282. [RESERVED] LICENSE APPLICATION VERIFICATION.

All applications shall be referred to the Issuing Authority for verification and investigation of the facts set forth in the application. The Issuing Authority shall make a written report and recommendation to the City Council as to issuance or non-issuance of the initial license application. The Issuing Authority is empowered to conduct any and all investigations to verify the information on the application, including ordering a computerized criminal history inquiry and/or a driver's license history inquiry on the applicant. The City Council may order and conduct such additional investigation as it deems necessary.

SEC. 14.283. [RESERVED] LICENSE APPLICATION CONSIDERATION.

- (a) The initial application for a license under this Division shall be presented to the City Council for consideration after the Issuing Authority has verified the information on the initial license application and conducted any investigation, including a criminal background check, to assure compliance with this Division. The hearing before the City Council shall be advertised at least ten (10) days prior to the scheduled date of the hearing. The City Council may accept or deny the license application at such public hearing. Renewal applications shall be governed by Section 14.295.04 of this Code.
If an application is granted for a location where a building is under construction or not ready for occupancy, the license shall not be delivered to the licensee until a certificate of occupancy has been issued for the licensed premises.

SEC. 14.284. [RESERVED] PERSONS AND LOCATIONS INELIGIBLE FOR A LICENSE.

- (a) **Individuals Ineligible.** No original or renewal license under this Division shall be issued to an applicant who is a natural person if such applicant:
- (1) Is not eighteen (18) years of age or older on the date the license application is submitted to the Issuing Authority;
 - (2) Has been convicted of any crime directly related to the occupation licensed and has not shown competent evidence of sufficient rehabilitation and present fitness to operate a medical marijuana distribution facility as prescribed by the Act;
 - (3) Is not of good moral character or repute;
 - (4) Has knowingly falsified or misrepresented information on the license application;
 - (5) Is not the real party in interest in the business being licensed; or
 - (6) Owes taxes or assessments to the State, County, School District, or City that are due and delinquent.
 - (7) Has had an interest in a corporation, partnership, association, enterprise, business or firm that had a federal, state or local license of any kind denied or revoked as a result of a violation of law within five (5) years of the date the license application is submitted to the Issuing Authority.
- (b) **Partnership Ineligibility.** No original or renewal license under this Division shall be issued to an applicant that is a partnership if such applicant has any general partner or managing partner:
- (1) Who is not eighteen (18) years of age or older on the date the license application is submitted to the Issuing Authority;
 - (2) Who has been convicted of any crime directly related to the occupation licensed as prescribed by Minnesota Statutes, Section 364.03, subdivision 2, and who has not shown competent evidence of sufficient rehabilitation and present fitness to operate a medical marijuana distribution facility as prescribed by the Act;
 - (3) Who is not a citizen of the United States or a resident alien, or is legally prohibited from working in the United States;
 - (4) Who is not of good moral character or repute;
 - (5) Who has knowingly falsified or misrepresented information on the license application;
 - (6) Who is not the real party in interest in the business being licensed; or
 - (7) Who owes taxes or assessments to the United States, State, County, School District, or City that are due and delinquent.
 - (8) Has had an interest in a corporation, partnership, association, enterprise, business or firm that had a federal, state or local license of any kind denied or revoked as a result of a violation of law within five (5) years of the date the license application is submitted to the Issuing Authority.
- (c) **Corporate and Association Ineligibility.** No original or renewal license under this Division shall be issued to an applicant that is a corporation or other organization if such applicant has any manager, proprietor, or agent in charge of the business to be licensed:
- (1) Who is not eighteen (18) years of age or older on the date the license application is submitted to the Issuing Authority;
 - (2) Who has been convicted of any crime directly related to the occupation licensed as prescribed by Minnesota Statutes, Section 364.03, subdivision 2, and who has not shown competent evidence of sufficient rehabilitation and present fitness to operate a medical marijuana distribution facility as prescribed by the Act;
 - (3) Who is not of good moral character or repute;
 - (4) Who has knowingly falsified or misrepresented information on the license application;
 - (5) Who is not the real party in interest in the business being licensed; or
 - (6) Who owes taxes or assessments to the United States, State, County, School District, or City that are due and delinquent.
 - (7) Has had an interest in a corporation, partnership, association, enterprise, business or firm that had a federal, state or local license of any kind denied or revoked as a result of a violation of law within five (5) years of the date the license application is submitted to the Issuing Authority.
- (d) **Locations Ineligible.** The following locations shall be ineligible for a license under this Division:
- (1) **Claims Due.** No license shall be granted or renewed for operation on any property on which taxes, assessments, or other financial claims of the United States, State, County, School District, or City are past due, delinquent, or unpaid. In the event a suit has been commenced under Minnesota Statutes, Sections 278.01-278.13, questioning the amount or validity of taxes, the City Council may on application waive strict compliance with this provision; no waiver may be granted, however, for taxes or any portion thereof which remain unpaid for a period exceeding one (1) year after becoming due.

- (2) **Improper Zoning.** No license shall be granted if the property is not properly zoned for medical marijuana distribution facilities under Chapter 19 or 21 of this Code.
- (3) **Proximity to Sensitive Uses.** No license shall be granted to any location within 1000 feet of an existing school (K-12). The distance shall be measured in a straight line without regard to intervening structures or objects from the distribution facility's site boundaries to the closest point of the property lines of the sensitive use.
- (4) **Limitation on Number of Licenses Issued.** No license shall be granted when the issuance thereof would increase the number of such licenses outstanding and in force at that time to more than one per each one hundred thousand (100,000) inhabitants or fraction thereof residing in the City according to the most recent decennial U.S. Census data. However, this Section of Code shall not be construed to vest in any licensee the right to hold a semi-exclusive license in that the City Council reserves the right, by properly adopted ordinance, to increase the number of licenses at any time.

SEC. 14.285. [RESERVED] LICENSE RESTRICTIONS.

- (a) **Records of Transactions.** At the time of making a medical marijuana transaction, the licensee must provide a receipt to the customer and keep a copy thereof on the licensed premises. The record of the transaction must include the following:
 - (1) the name, address and telephone number of the licensed business;
 - (2) the date and time of the transaction;
 - (3) the signature or unique identifier of the licensee or employee that conducted the transaction;
 - (4) the full name, residence address, residence telephone number, and date of birth of the customer, noting the method of identification by one of the following:
 - (A) current valid Minnesota driver's license;
 - (B) current valid Minnesota identification card; or
 - (C) current valid photo driver's license or identification card issued by another state.
 - (5) the signature of the customer.
 - (6) The type and amount of medical marijuana distributed, along with the amount and type of payment therefor accepted by the licensee.
- (b) **Hours of Operation.** No medical marijuana distribution facility shall be open for the transaction of business on any day of the week before 7:00 a.m. or after 7:00 p.m.
- (c) **Security guards.** During all hours of operation, there must be at least one licensed, uniformed security guard present and visible on the premises.
 - (1) Such guard(s) must be duly licensed by the State of Minnesota in a manner compliant with all applicable state and local laws.
 - (2) The presence and licensing of such guards must be verified by the operator(s), employee(s) or security guard(s) of such distribution facility, upon reasonable demand by any local, state or federal licensed peace officer.
- (d) **Closed Circuit Television Surveillance System.** Distribution facilities must operate and maintain in good working order a closed-circuit television (CCTV) surveillance system on its premises that operates 24 hours per day, seven days per week and visually records:
 - (1) All areas that might contain plant material or Medical Marijuana, including all safes and vaults;
 - (2) All points of entry and exit, including sales and clinic areas;
 - (3) The entrance to the video surveillance room and any parking lot, which must have appropriate lighting for the normal conditions of the area under surveillance.
 - (4) Cameras must capture clear and certain identification of any person entering or exiting the distribution facility, have the ability to produce a clear, color still photograph either live or from a recording;
 - (5) Have an embedded date and time stamp on all recordings that must be synchronized and must not obscure the picture;
 - (6) and remain operational during a power outage.
 - (7) The CCTV system must be kept in a secure manner to prevent theft, loss, destruction, corruption or alteration.
- (e) **Video Recording Requirements.**
 - (1) The CCTV system must export still images in an industry standard format.
 - (2) Exported video must be archived in a proprietary format that ensures authentication and guarantees that the recorded image has not been altered.
 - (3) Exported video must be saved in an industry standard file format that can be played on a standard computer operating system.

- (4) All video recordings must be available for viewing upon request of the Bloomington Police Department, retained for at least 90 calendar days, maintained free of alteration or corruption and retained longer as needed if the distribution facility operator is given actual notice of a pending criminal, civil or administrative investigation or other legal proceeding for which the recording may contain relevant information.
- (5) The video recordings must be kept in a secure manner to prevent theft, loss, destruction, corruption or alteration.
- (6) All recordings must be erased or destroyed before disposal.
- (f) **Alarm System Requirements.** Distribution facilities must install and maintain a professionally monitored security alarm system that provides intrusion and fire detection of all entrances and exits, rooms with exterior windows, rooms with exterior walls, roof hatches, skylights, and storage rooms. The alarm system must remain operational during a power outage.
- (g) **Restricted Access to the Building.** Distribution facilities must be equipped with an electronic controlled access that limits access to the building to authorized individuals, tracks personnel entry and exit times, locks down the distribution facility in the event of a security threat, stores data for retrieval, remains operational during a power outage and is capable of remote administration. Distribution facility operators must submit the controlled access system data to the Bloomington Police Department upon request.
- (h) **Building Location.** Distribution facilities must be located in a highly visible permanent building that is situated so that all public points of access to the distribution facility are visible from the street.
- (i) **Lighting.** The distribution facility site must meet the lighting standards for retail and service oriented uses (see Section 21.301.07).
- (j) **Inconspicuous Displays.** All displays of merchandise, interior signs and other exhibits must be situated so as to prevent public viewing from outside the facility.
- (k) **Exterior Signage.** Signs must not include images of cannabis or cannabis smoking paraphernalia, colloquial references to cannabis, names of cannabis plant strains, or medical symbols that bear a reasonable resemblance to established medical associations.
- (l) **Automated Teller Machine.** Each distribution facility must have located in a secure area of the facility an Automated Teller Machine available for use by customers.
- (m) **Inspection of Items.** The licensee must, at all times during the term of the license, allow the City Police Department or Issuing Authority to enter the premises where the licensed business is located, during normal business hours and at all other reasonable times, for the purpose inspecting such premises, the record of all transactions conducted therein, including without limitation all shipping, packaging and inventory records and lists, as well as all items, ware, and merchandise therein for the purpose of verifying compliance with this Division and applicable state laws.
- (n) **No Paraphernalia or Other Merchandise.** The licensee must restrict the business activity at the licensed premises to patient evaluation and education, and the sale of medical marijuana as defined herein along with delivery devices and supplies specifically required for the proper delivery of medical marijuana and no other product, such as, without limitation: other forms of marijuana, illegal drugs, or tobacco. All sales must be restricted to a patient enrolled in the registry program under the Act with a qualifying medical condition or their registered designated caregiver, as defined in the Act.
- (o) **Maintenance of Order.** A licensee under this Division shall be responsible for the conduct of the business being operated and shall maintain conditions of order.
- (p) **Employees.** No licensee under this Division may employ any person who is under 21 years of age or who has been convicted of a disqualifying felony offense. Each licensee must employ a validly licensed pharmacist(s) and provide proof of current licensure in good standing. Licensed pharmacists must be the only employee(s) to distribute medical marijuana.
- (q) **No Consumption on Premises.** Under no circumstances shall a licensee permit any person to consume medical marijuana on the licensed premises.
- (r) **Licensed Premises.** A license issued under this Division is effective only for the compact and contiguous space or premises specified in the approved license application. A separate license is required for each place of business.
- (s) **Change in Ownership.** Any change, directly or beneficially, in the ownership of any licensed medical marijuana distribution facility shall require the application for a new license and the new owner must satisfy all current eligibility requirements.
- (t) **Inactive License.** Any licensed medical marijuana distributor who fails to conduct any transactions for a period of six (6) consecutive months shall be sent by the Issuing Authority a notice of hearing to show cause why the license should not be revoked by the City Council. At that hearing, the City Council shall determine the status of the licensee's operations and if satisfactory proof of intent to conduct business under the license is not demonstrated by the licensee, the City Council may revoke the license.

SEC. 14.286. [RESERVED] RESTRICTIONS REGARDING LICENSE TRANSFER.

- (a) Each license under this Division shall be issued to the applicant only and shall not be transferable to any other person. No licensee shall loan, sell, give or assign a license to another person. A license issued under this Division is for the person and premises named on the approved license application, only at the permanent place of business designated on the license. No transfer of a license shall be permitted from place-to-place or from person-to-person, except in the case in which an existing licensee is merely changing a business or corporate name or changing their corporate structure so long as there is no change in the ownership or control of the business or function. All licenses issued under this Division must be posted in a conspicuous place on the premises for which it issued.
- (b) A licensee under this Division must immediately notify the Issuing Authority of the following:
 - (1) a change in the corporate or organization officers listed in the license application.
 - (2) any changes in the partnership agreement.
 - (3) a change of the managing partner, store or general manager, proprietor, or other person who is in charge of the licensed premises.
 - (4) any change in the ownership of an establishment licensed under this Division, including any acquisition of an interest in the partnership, corporation, or other organization by any person not identified in the license application.
- (c) When an establishment licensed under this Division is sold or transferred, the licensee shall immediately notify the Issuing Authority of the sale or transfer. Prior to that sale or transfer the prospective new owner must apply for a new license at least twenty (20) days prior to the effective date of the transfer if the establishment that is sold or transferred is to continue in the business of medical marijuana distribution facility.

SEC. 14.286.01. RENEWAL APPLICATION.

- (a) **Effect of License; Deadline for Renewal Application.** All licenses issued under this Division shall be effective for one (1) year from the date of approval by the City Council. An application for the renewal of an existing license shall be made prior to the expiration date of the license and shall be made in such form as the Issuing Authority requires. If, in the judgment of the City council, good and sufficient cause is shown by an applicant for the applicant's failure to submit a renewal application before the expiration of the existing license, the City Council may, if the other provisions of this Division are complied with, grant the renewal application.
- (b) **Consideration of Renewal Application.** Within a reasonable period after the completion of the renewal license verification process by the Issuing Authority, the Issuing Authority shall accept or deny the renewal license application in accordance with this Division. If the renewal application is denied, the Issuing Authority shall notify the applicant of the determination in writing. The notice shall be mailed by regular mail to the applicant at the address provided in the application and it shall inform the applicant of the applicant's right, within twenty (20) days after receipt of the notice by the applicant to request an appeal of the Issuing Authority's determination to the City Council. If an appeal to the City Council is timely received by the Issuing Authority, the hearing before the City Council shall take place within a reasonable period of receipt of the appeal by the Issuing Authority.

SEC. 14.286.02. SANCTIONS FOR LICENSE VIOLATIONS.

- (a) **Suspension or Revocation.** The City Council may revoke a license, suspend a license for up to sixty (60) days, impose a civil penalty of up to \$2,000 for each violation, or impose any combination of these sanctions, issued pursuant to this Division for a violation of:
 - (1) Fraud, misrepresentation, or false statement contained in a license application or a renewal application.
 - (2) Fraud, misrepresentation, or false statement made in the course of carrying on the licensed occupation or business.
 - (3) Any violation of this Division or state law.
 - (4) A licensee's criminal conviction that is directly related to the occupation or business licensed as defined by Minnesota Statutes, Section 364.03, subdivision 2, provided that the licensee cannot show competent evidence of sufficient rehabilitation and present fitness to perform the duties of the licensed occupation or business as defined by Minnesota Statutes, Section 364.03, subdivision 3.
 - (5) Conducting the licensed business or occupation in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the community.

(b) Notice of Hearing. A revocation or suspension by the City Council shall be preceded by written notice to the licensee and a hearing. The notice shall give at least eight (8) days' notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice shall be mailed by regular mail to the licensee at the most recent address listed on the license application.

SEC. 14.286.03. PROHIBITED ACTS.

A licensee and any clerk, agent, or employee of a licensee shall not:

- (1) make any false entry in the records of transactions;
- (2) falsify, obliterate, destroy, or remove from the place of business the records, books, or accounts relating to the licensee's transactions;
- (3) refuse to allow the appropriate law enforcement agency, the attorney general, or any other duly authorized state or federal law enforcement officer to inspect the business records during the ordinary hours of business or other time acceptable to both parties;

SEC. 14.286.04. PENALTY.

A violation of this Division shall be a misdemeanor under Minnesota law. Civil administrative penalties shall be subject to assessment pursuant to Section 12.15 of the City Charter and Section 1.19 of this City Code. However, nothing in this Article shall be construed to limit the City's other available legal remedies for any violation of the law, including without limitation, licensing sanctions, criminal, civil, and injunctive actions. In addition, violations or failure to pay civil fines may result in future license ineligibility.

SEC. 14.286.05. SEVERABILITY.

If any section, subsection, sentence, clause, or phrase of this Division is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Division. The City Council hereby declares that it would have adopted this Division and each section, subsection, sentences, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

Section 2. That Chapter 19 of the City Code is hereby amended by deleting those words that are contained in brackets [] and adding those words that are underlined, to read as follows:

CHAPTER 19

ZONING

ARTICLE I. GENERAL PROVISIONS

SEC. 19.03. DEFINITIONS

Medical marijuana - any species of the genus cannabis plant, or any mixture or preparation of them, including whole plant extracts and resins and is delivered in the form of (1) liquid, but not limited to oil; (2) pill; (3) vaporized delivery method with use of liquid or oil, but which does not require the use of dried leaves or plant form that has been approved the Commissioner of the Minnesota Department of Health under Minn. Stat. §152.25.

Medical marijuana distribution facility - an establishment engaged in the sale of medical marijuana that is validly registered and approved by the State of Minnesota.

ARTICLE III. ZONING DISTRICT MAP, ZONING DISTRICTS AND DISTRICT USES

SEC. 19.31.01. REGIONAL COMMERCIAL (CR-1) DISTRICTS

(d) **Conditional Uses**

(9) Medical marijuana distribution facility.

Section 3. That Chapter 21 of the City Code is hereby amended by deleting those words that are contained in brackets [] and adding those words that are underlined, to read as follows:

CHAPTER 21

ZONING AND LAND DEVELOPMENT

ARTICLE II. DISTRICTS AND USES

Division H. Uses

SEC. 21.209. USE TABLES.

(d) **Neighborhood and Freeway Commercial Zoning Districts.**

USE TYPE	ZONING DISTRICT								REFERENCES
	B-1	B-2	B-4	C-1	C-2	C-3	C-4	C-5	
									See Listed Section

RETAIL/SERVICES

Medical Facilities									
Laboratory, medical or dental	P	P	P	P	P	A	P	A	
Office, medical or dental	P	P	P	P	P	P	P	P	
Hospital				C	C	C	C	C	
<u>Medical marijuana distribution facility</u>		<u>C</u>	<u>C</u>		<u>C</u>	<u>C</u>		<u>C</u>	14.267 21.302.22

(f) **Specialized Zoning Districts**

USE TYPE	ZONING DISTRICT								REFERENCES
	CX-2	LX							See Listed Section

RETAIL/SERVICES

Medical Facilities										
Laboratory, medical or dental	P	P								
Office, medical or dental	P	P								
Hospital	P									
Medical marijuana distribution facility	C	C								14.267 21.302.22

ARTICLE III. DEVELOPMENT STANDARDS

Division A. General Standards

SEC. 21.301.06. PARKING AND LOADING.

(d) Number of off-street parking spaces required.

MINIMUM OFF-STREET PARKING REQUIREMENTS

NON-RESIDENTIAL

<p>Office</p> <p>General, and Medical or Dental, and Medical Marijuana Distribution Facilities</p> <p>High Intensity/Call Centers and Telemarketing</p>	<p>One space per 285 square feet of gross floor area;</p> <p>A range from one space per 165 square feet to one space per 100 square feet of gross floor area as determined by the Issuing Authority</p>
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Division B. Use Standards

SEC. 21.302.22 MEDICAL MARIJUANA DISTRIBUTION FACILITIES

(a) **Purpose.** To provide patients registered with the Minnesota Department of Health's medical cannabis program access to medical marijuana while reducing the potential negative impacts of medical marijuana distribution facilities on the public health, safety, and general welfare of the community.

(b) **Standards.**

(1) **Prohibited Activities.**

(A) Distribution facilities must not distribute any other product or substance except for medical marijuana.

(B) No cultivation, harvesting, manufacturing, packaging, processing, or sampling of medical marijuana or any other substance may occur on the distribution facility site.

(C) The sale and distribution of non-medical marijuana is prohibited.

(2) **Separation from Sensitive Uses.** No distribution facility may be located:

(A) Within 1,000 feet of an existing school (K-12). Distances will be measured in a straight line without regard to intervening structures or objects from the distribution facility's site boundaries to the closest point of the property lines of the K-12 school.

(3) **Limitation on the number of distribution facilities.**

(A) No new conditional use permit for a distribution facility may be approved that would increase the number of distribution facilities in the City to more than one per each 100,000 inhabitants or fraction thereof residing in the City according to the most recent decennial U.S. Census data. However, this Section of Code shall not be construed to vest in any holder of a conditional use permit for a distribution facility the right to hold a semi-exclusive operation in that the City Council reserves the right, by properly adopted ordinance, to increase the number of distribution facilities at any time.

(4) **Restricted Access to the Building.** Distribution facilities must be equipped with an electronic controlled access that limits access to the building to authorized individuals, tracks personnel entry and exit times, locks down the distribution facility in the event of a security threat, stores data for retrieval, remains operational during a power outage and is capable of remote administration. Distribution facility operators must submit the controlled access system data to the Bloomington Police Department upon request.

(5) **Building Location.** Distribution facilities must be located in a highly visible permanent building that is situated so that all public points of access to the distribution facility are visible from the street.

(6) **Lighting.** The distribution facility site must meet the lighting standards for retail and service oriented uses (see Section 21.301.07).

(7) **Exterior Signage.** Signs must not include images of cannabis or cannabis smoking paraphernalia, colloquial references to cannabis, names of cannabis plant strains, or medical symbols that bear a reasonable resemblance to established medical associations.

(8) **Conditional use permit submittal requirements.** In addition to the submittal requirements stated in Section 21.501.04, the following materials must also be submitted to the Issuing Authority as part of a distribution facility conditional use permit application:

(A) **Operating Documents.** Distribution facility operators must submit documents that describe operational and management practices including:

(i) Security measures to deter and prevent theft of medical marijuana.

(ii) Disposal methods for all waste material.

(iii) Response plans for measures to be taken in the event of a security breach at a distribution facility, or while medical marijuana is in route to a distribution facility.

(iv) Proposed product delivery plan.

(v) Other information deemed necessary and requested by the Issuing Authority.

(9) **Licensing.** The distribution facility must receive required local, state and federal licenses prior to operation and must maintain required licenses at all times.

(c) **Penalty.** A violation of this Article shall be a misdemeanor under Minnesota law. Civil administrative penalties shall be subject to assessment against the property pursuant to Section 12.15 of the City Charter and Section 1.19 of the City Code. However, nothing herein shall be construed to limit the City's other available legal remedies including without limitation the revocation and suspension of any City issued

license or permit associated with the property or civil injunctive actions. In addition, violations or failure to pay civil fines may result in future license or permit ineligibility.

ARTICLE V. ADMINISTRATION AND NONCONFORMITY

Division A. Approvals and Permits

SEC. 21.501.04 CONDITIONAL USE PERMITS

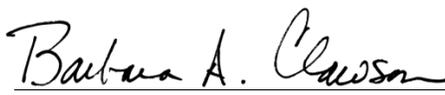
- (d) **Review and Approval.** Conditional use permit applications must be reviewed and acted upon by the Planning Commission, except for the uses listed in Section 21.501.04(d)(1), which must be reviewed by the Planning Commission and acted upon by the City Council.
- (1) **City Council Review.** Because of higher potential to negatively impact surrounding property, the following use types must be reviewed by the Planning Commission and acted upon by the City Council when a conditional use permit is required by the underlying zoning district.
- (A) Clubs and lodges;
 - (B) College or university;
 - (C) Convention center;
 - (D) Hospitals, sanitariums and rest homes;
 - (E) Household hazardous waste and recycling collection facilities;
 - (F) Junk car disposal businesses;
 - (G) Open storage as a primary use;
 - (H) Other uses compatible with the mixed use concept of the CO-2 District;
 - (I) Pawn shops;
 - (J) Places of assembly;
 - (K) Planned developments;
 - (L) Post secondary educational institutions;
 - (M) School (K-12), public or private
 - (N) Solid waste transfer stations
 - (O) Manufactured home parks [-]; and
 - (P) Medical marijuana distribution facilities.

Passed and adopted this 19th day of October, 2015.



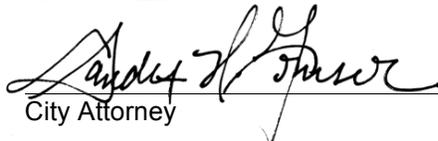
Mayor

ATTEST:



Secretary to the Council

APPROVED:



City Attorney