

CITY COUNCIL COMMUNICATION



MEETING DATE: July 09, 2024

ITEM NUMBER: 12.{{item.number}}

SECOND READING:

{{customfields.ResoOrdNumber}}

TYPE OF ITEM: General Business

PRESENTED BY:

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SUBJECT/AGENDA TITLE:

Zero Reading - Amendments to Chapter 6.70 - Marijuana to Add Hospitality Licenses and Make Necessary Updates to Concur with Statute

EXECUTIVE SUMMARY:

On January 9, 2024, and April 30, 2024, staff presented information about marijuana hospitality licenses and asked Council for direction as to whether or not to bring back an ordinance enacting this new license type in Longmont along with any additional criteria. The Council directed staff to bring back a draft ordinance allowing for marijuana hospitality licenses with and without sales but did not direct staff to bring back mobile marijuana hospitality licenses.

The attached draft ordinances encompass the direction given by Council on April 30th. Two ordinance options are presented: one enacting no cap on the number of marijuana hospitality licenses and thus allowing the land use regulations and the market to determine the number of licenses; and another enacting a cap of four marijuana hospitality licenses similar to the cap on retail marijuana stores in city limits.

Staff is seeking direction on which ordinance, if any, Council would like staff to bring back for consideration on First Reading, and if any additional changes are desired in the ordinance language.

COUNCIL OPTIONS:

1. Council policy decision

RECOMMENDED OPTIONS:

No staff recommendation

FISCAL IMPACT & FUND SOURCE FOR RECOMMENDED ACTION:

N/A

BACKGROUND AND ISSUE ANALYSIS:

On January 9, two members of the public spoke to Council in support of the addition of a Marijuana Hospitality License in Longmont. One is seeking to establish a permanent licensed premises without sales (License form #1 below) as a commercial entertainment facility and the other is seeking to establish a permanent licensed premises with sales to provide personal massage services using topical Retail Marijuana (License form #2 below).

Below is a review of the various considerations presented on April 30th and a summary of the direction given to staff that was incorporated into the ordinance drafts attached to this Council item.

LICENSE TYPES & NUMBER OF LICENSES

Consumption of marijuana in public places is prohibited in the state of Colorado. A Marijuana Hospitality License provides a location for people to legally consume marijuana (whether it be smoked, ingested, or applied topically to the skin) without violating state law.

Marijuana Hospitality businesses may take three forms:

1. **Permanent Licensed Premises *without* Sales:** Allowing consumption of marijuana within a permanent licensed premises by a person 21 or over with no sales allowed using a 'bring your own' model.
2. **Permanent Licensed Premises *with* Sales:** Marijuana Hospitality and Sales Business allowing consumption of marijuana within a permanent license premises by a person 21 or over with limited sales of marijuana permitted and patrons may not bring their own marijuana.
3. **Mobile Premises:** Allowing adults over 21 to consume marijuana within a mobile license premises (like a shuttle or a bus) with no sales allowed.

>>Council directed staff to only bring back permanent licensed premises with or without sales.

However, the Council was undecided about whether to implement a cap on the number of marijuana hospitality licenses. For this reason, staff has provided two ordinance options: one ordinance would enact no cap on the number of marijuana hospitality licenses, and the other would enact a cap of four licenses.

Staff is requesting Council direction as to which option, if any, they would like to be brought back for first reading.

Also, 6.70.240(E) provides that it is unlawful for one owner to hold more than one license. This would prohibit any existing licensee from holding a marijuana hospitality license. Staff requests Council direction to keep or change this provision. <<



ALLOWED ACTIVITIES AND PROHIBITED ACTIVITIES

SHALL	CAN – IF ALLOWED LOCALLY	CANNOT
Operate in a decent, orderly, and respectable manner AND Comply with all rules and laws for sales if selling on the premises	Operate in an isolated portion of a retail food business if the retail food business does not have a liquor license	Allow on-duty employees to consume marijuana on the premises
Ensure all sales, consumption and activities cease if an emergency requires law enforcement, firefighters, emergency medical providers to enter the establishment	Have an Outdoor Consumption Area. All marijuana must be kept out of plain sight, and the area must be surrounded by a sight-obscuring wall, fence, hedge or other translucent barrier.	Allow consumption of alcohol on the premises
Operate between the hours of 7:00 a.m. and 2:00 a.m., Monday through Sunday (Marijuana stores are only allowed to operate from 8:00 a.m. to 10:00 p.m.)	Serve/Sell hot coffee, hot tea, instant hot beverages, prepackaged food	Allow smoking of tobacco or tobacco products on the premises
Carry general liability insurance		Admit any person under the age of 21 to the business
Display required signage: Consumption Area – No One Under 21 Years of Age Allowed		Allow display or consumption of marijuana visible from the outside of the licensed premises
Report to the MED any criminal activity requiring in-person law enforcement within 48 hours		Permit use or consumption by a patron who displays any visible signs of intoxication
Control of and dispose of marijuana left by consumer (for a license without sales)		

Additionally, it is important to note that spa businesses have unique privileges and restrictions under the Licensed Marijuana Hospitality Businesses.

- They SHALL be licensed massage therapists, have protocols to prevent employees from consuming regulated marijuana on the premises, have a defined consumption area for massage services using topical Retail Marijuana Product, and comply with daily sales limits as defined in Marijuana Regulations.
- No other consumption of regulated marijuana is permitted in the consumption area for massage services other than the application of topical marijuana products.

>>Council did not give direction to staff to add additional criteria or limitations on the marijuana hospitality license types.<<

LOCATION

On April 30th, staff reviewed location considerations with Council.

Location Considerations - Zoning

Neither the Colorado Marijuana Code, nor the Marijuana Enforcement Division's Rules provide setback or zoning requirements that restrict where a Marijuana Hospitality business may be located. However, the Colorado Marijuana Code does allow a local jurisdiction to impose these restrictions.

Longmont Municipal Code related to marijuana licensed businesses already requires that *"No application for a license or for a change of location shall be granted which proposes a licensed premises within 250 feet of a residentially zoned area or within 1,000 feet of any school serving students in any grade from kindergarten through 12th grade, inclusive."* (LMC Sec. 6.70.105.)

If allowed, a hospitality licensee operating as a commercial entertainment facility would be a permitted use in the MU-C, MU-D, MU-E, and MU-R zoning areas under Title 15 of the Longmont Municipal Code (LMC).

Massage would be considered "personal service," and would be a permitted use in MU-N, MU-C, MU-D, MU-E, and MU-R.

Because the possibilities are not all known and there are great entrepreneurs in Longmont, staff would recommend following the table of allowed uses in Longmont Municipal Code to determine the appropriate zone for a marijuana hospitality business.

Staff also provided information on additional distance restrictions from childcare facilities, drug and alcohol treatment facilities, city recreation centers, and other licensed marijuana businesses.

>>Council directed staff to make no additional distance restrictions or zoning requirements other than following the Table of Allowed Uses in Title 15 and the distance restrictions set forth in LMC Sec. 6.70.105.<<

APPLICATION AND FEES

Staff also reviewed application criteria with Council on April 30th and recommended the following fees:

\$1,000 Application Fee (one-time)

\$2,000 License Fee (annual)

>>Council did not direct staff to add any additional criteria for applicants other than what is already in the municipal code and agreed with the recommended fees.<<

SOCIAL EQUITY PROGRAM FOR APPLICANTS

On April 30th, the Council considered the merits of the City and County of Denver’s Social Equity Program and the State of Colorado’s program.

>>The Council decided that they would like to extend waived application fees to applicants eligible under the State’s Social Equity Program. This will be included in the Resolution setting fees that will be brought back if Council gives staff direction to bring back this draft ordinance on first reading. <<

OTHER CODE AMENDMENTS

>>Staff will bring back amendments to the LMC to exempt marijuana hospitality from indoor smoking prohibitions if directed to bring back marijuana hospitality.

>>These ordinance drafts include the clean-up changes already approved by Council on January 9, 2024, including the following:

A - Amend 6.70.110 regarding renewal of a retail marijuana license to eliminate the requirement to file documentation that is not needed for a *renewed* license.

B - Amend 6.70.160 regarding transfer of ownership to reduce required documentation in keeping with a *transferred* license and require only documentation related to continuing the business operations and substantiation of any changes in operations and ownership.

>>***Staff is requesting approval for one additional recommended change to local marijuana code to remove the requirement of the redundant manager registration for marijuana stores with the Local Authority under Sec. 6.70.230(K) by striking the entire paragraph.*** The reason for this change is threefold:

1. The state already vets every employee in the regulated marijuana industry and approved individuals receive an MED Badge. MED Badge holders must meet the following requirements:
 - You MUST be a Colorado Resident at the time of application and be able to prove residency. You MUST provide a Colorado Driver’s license or ID.
 - You are not legally allowed to work in the Colorado cannabis industry if you have discharged a sentence for a conviction of a felony pursuant to any state or federal law regarding the possession, distribution, manufacturing, cultivation, or use of a controlled substance, including probation or parole, within the past 10 years.



- You are not legally allowed to work in the Colorado cannabis industry if you discharged a sentence, including probation or parole, within the past 5 years upon conviction for ANY felony, even if the conviction occurred more than 5 years ago.
 - You may not have failed to remedy an outstanding delinquency for any judgments, taxes, interest, or penalties due to the Department of Revenue, relating to a Medical or Retail Marijuana Business.
 - You must be 21 years or older to apply for MED Badge.
2. Marijuana stores retain various managers at each location who each already have an MED badge and have been approved by the State Marijuana Enforcement Division. For whatever reason, these managers turn over rather frequently. This creates a recordkeeping strain on the City that is not necessarily fruitful work since, to date, the additional background and registration with the City has netted no findings that have impacted any manager or dispensary operation.
 3. Because the process is paper driven like most marijuana and liquor licensing, and each application must be reviewed by the Municipal Judge as the Marijuana Licensing Authority, Police Detectives, and licensing staff, it is not anticipated that the fees adequately recover the costs of administering this aspect of the program.

This change is incorporated into the draft ordinances attached to this Council Communication. Council may accept this additional change in either version of the ordinance or direct staff not to make this additional amendment.<<

ATTACHMENTS:

DRAFT ORDINANCE allowing marijuana hospitality licenses WITH CAP

DRAFT ORDINANCE allowing marijuana hospitality licenses NO CAP