

CITY OF LOWELL

COMMUNICATION

IN THE

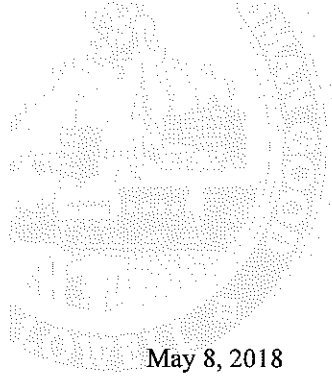
CITY COUNCIL

*Planning Board
Recommendation
Re: Magnolia*

IN CITY COUNCIL

May 15, 2018
Read and

City Clerk



Diane N. Tradd
Assistant City Manager/DPD Director

R. Eric Slagle
Director of Development Services

Shaun Shanahan
Building Commissioner

May 8, 2018

Mayor William Samaras
and
Members of the City Council

REFERENCE: Planning Board recommendation with respect to a Proposed Ordinance Amending the Zoning Ordinance of the City of Lowell, Massachusetts by amending Article II Definitions, Article VII Special Regulations adding Section 7.10: Marijuana, Article XII: Table of Uses, and amending Sections 11.4.2 and 6.1.4 that deal with Site Plan Review and parking regulations.

Dear Mayor Samaras and Members of the City Council:

The Lowell Planning Board held a Public Hearing on Monday, May 7, 2018 to hear all interested persons relative to ordinances to amend "The Code of Ordinances City of Lowell, Massachusetts," with respect to Chapter 290 thereof entitled "Zoning" amending Article II Definitions, Article VII Special Regulations adding Section 7.10: Marijuana, Article XII: Table of Uses, and amending Sections 11.4.2 and 6.1.4 that deal with Site Plan Review and parking regulations.

Member Gerard Frechette motioned and Member Robert Malavich seconded to recommend that the proposed amendments be APPROVED with the following caveats:

1. Further consideration should be given to defining "college" as stated in proposed Section 7.10.4(5)(b). The Planning Board believes the Ordinance should clarify if this section intends to apply to college dormitories, college classrooms, or both.
2. The Planning Board suggests including the following language to Section 7.10.4(6) "...subject to Site Plan Review and Special Permit under this Section from the Lowell Planning Board" to make the permitting requirements absolutely clear for new adult use marijuana establishments that are exempt from the co-location provision.
3. Further consideration should be given to requiring the security plan, pursuant to proposed Section 7.10.5(4), as a filing requirement to the Planning Board. The Planning Board has public safety concerns and suggests that the section of the Ordinance should require the proponent to submit proof that the Lowell Police Department has reviewed and approved the security plan as part of the proponent's filing.

The Board voted unanimously (5-0) in support of the motion. If you have any questions or need any assistance, please feel free to contact me at the Department of Planning and Development – Development Services Division at 978-674-1472.

Sincerely,

Christine McCall
Senior Planner

2018 MAY -8 PM 5:08
CITY OF LOWELL
CITY CLERK'S OFFICE

CM/ns
Attachment

cc: Eileen M. Donoghue, City Manager
Christine P. O'Connor, City Solicitor
Diane Tradd, Assistant City Manager/DPD Director
R. Eric Slagle, Director of Development Services
Chairman Thomas C. Linnehan and Planning Board Members

Michael Q. Geary
City Clerk

Angela M. Gitschier
Assistant City Clerk

Senior Planner, Christine McCall
Planning Board
City Hall
Lowell, Massachusetts

Dear Christine,

At the regular meeting of the City Council held Tuesday April 10, 2018, the following Ordinance was read and referred to the Planning Board for report and recommendation (May 7, 2018) and to Public Hearing before City Council at 7PM on May 15, 2018.

ORDINANCE:

An Ordinance Amending the Zoning Ordinance of the City of Lowell, Massachusetts, by Amending Various Sections.

Sincerely,


Angela Gitschier
Acting City Clerk

COMMONWEALTH OF MASSACHUSETTS

CITY OF LOWELL

In City Council

ORDINANCE

An Ordinance Amending the Zoning Ordinance of the City of Lowell, Massachusetts, by Amending Various Sections.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOWELL, as follows

"The Code of Ordinances City of Lowell, Massachusetts", hereinafter called the "Code," adopted by the City Council on December 23, 2008, as amended, is hereby further amended with respect to Chapter 290 thereof entitled, "Lowell Zoning Ordinance," adopted December 7, 2004, as amended, as follows:

1. Amend ARTICLE II DEFINITIONS, by inserting new paragraphs as follows:

"MARIJUANA: All parts of any plant of the genus Cannabis, the hemp plant; ingested through various forms for the intended use as a drug or medicine for the intoxicating effects yielded by tetrahydrocannabinol; commonly referred to as marihuana, weed.

REGISTERED MARIJUANA USE: A use engaged in the commercial cultivation, assembly, production, processing, packaging, retail or wholesale, trade, distribution or dispensing of Medical or Recreational Marijuana that is regulated by the Massachusetts Department of Public Health or the Cannabis Control Commission."

MARIJUANA CULTIVATION FACILITY: A use engaged in the cultivation, processing, and packaging of marijuana; manufacturing of marijuana product; deliver and transfer of marijuana to marijuana establishments, but not to consumers. This definition shall also apply to marijuana product manufacturer, marijuana cultivator, craft cultivator cooperative, marijuana transporter, third party marijuana transporter, and marijuana micro-business.

MARIJUANA ACCESSORIES: Equipment, products, devices, or materials that are intended or created for planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, production, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling, or otherwise introducing marijuana into a person.

MARIJUANA PRODUCTS: Manufactured products having marijuana or a marijuana extract, including but not limited to edibles, beverages, topic products, ointments, oils, and tinctures.

MARIJUANA TESTING FACILITY: A licensed facility used to test marijuana and marijuana products, and certify for potency and the existing of contaminants. This definition shall also apply to marijuana research facility, marijuana independent testing lab, and marijuana standards testing lab.

MEDICAL MARIJUANA TREATMENT CENTER: A not-for-profit entity, as defined by Massachusetts law only, registered by the Department of Public Health, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers.

RECREATIONAL/COMMERCIAL MARIJUANA DISPENSARY: The retail sale of recreational/commercial marijuana and marijuana product items to a person twenty-one years of age and older, provided that the marijuana retailer is licensed by the Cannabis Control Commission (MA) and the Massachusetts Department of Public Health for recreational marijuana sales. This definition shall also apply to marijuana store-front retailer and marijuana delivery retailer.”

2. Amend ARTICLE VII SPECIAL REGULATIONS by inserting a new section 7.10 as follows:

“SECTION 7.10 MARIJUANA

7.10.1 Purpose. The purpose of this provision shall be to regulate the development of registered marijuana uses and establishments for medical and recreational purposes.

7.10.2 Applicability. Registered marijuana uses operated by organizations licensed by the Massachusetts Cannabis Control Commission or the Massachusetts Department of Public Health.

7.10.3 Conversion. Registered Medical Dispensaries registered no later than July 1, 2017 that engages in the cultivation, manufacture or sale of marijuana or marijuana products to a marijuana establishment for adult use engaged in the same type of activity shall be subject to the regulations of Section 6.1.4, Section 7.10, and Section 11.4.8.

7.10.4 Conditions. Registered Marijuana uses shall be located, constructed, and operated in such a way as to minimize the extent feasible any noise, safety, odor, and environmental impacts.

1. The building, or portion thereof, used for marijuana retailing shall be designed or equipped to prevent detection of marijuana odors and other objectionable odors from the property line.
2. Except where it is explicitly stated otherwise in this Zoning Code, a Registered Marijuana Use shall conform to the dimensional requirements.
3. Registered marijuana uses shall be located only in a permanent building and not within any mobile facility. All sales shall be conducted either within the building or by home deliveries to qualified clients pursuant to applicable state and local regulations.
4. The applicant shall provide documentation in the form of a single-page certification signed by the contracting authorities for the municipality and the applicant evidencing that the applicants for licensure and host municipality have executed a host community agreement.
5. No recreational marijuana retail facilities shall be within:
 - a. One thousand (1,000) feet of another presently existing or permitted Marijuana Dispensary or Recreational Retail Facility; or
 - b. Five hundred (500) feet of public or private elementary school, middle school, secondary school, or any school or college serving a student population where any of the student population is under twenty-one years of age;
 - c. All distances shall be measured, as the crow flies, from property line to property line.
6. Co-Location:
 - a. Marijuana and tobacco products shall not be smoked, ingested, or otherwise consumed in the building space occupied by the retailer.
 - b. Marijuana retailing shall not be co-located on the same parking lot or parcel or within the same building with any retail shop that sells tobacco or marijuana paraphernalia. All Registered Medical Dispensaries registered no later than July 1, 2017 are exempt from this provision.
 - c. The simultaneous operation of a marijuana medical dispensary and an adult use recreational dispensary on the same lot or building is strictly prohibited. All Registered Medical Dispensaries registered no later than July 1, 2017 are exempt from this provision.
7. No persons under the age of 21 shall be permitted to be present in the building, or portion thereof, occupied by the marijuana retailer.

8. The use of a walk-up or drive-thru window service is strictly prohibited.
9. Registered marijuana uses shall not be permitted under Section 4.3 Accessory Uses of the Lowell Zoning Ordinance.

7.10.5 Additional Requirements. Registered marijuana uses shall provide the following minimum performance standards. Such standards shall be reviewed and approved by the Planning Board as a part of a public hearing for a Site Plan Review, and shall, at a minimum, include the following:

1. The applicant shall submit a narrative providing information about the type and scale of all activities that will take place on the proposed site, including but not limited to cultivating and processing of marijuana or marijuana infused products (MIPs), on-site sales, off-site deliveries, distribution of educational materials, and other programs or activities.
2. The applicant shall submit a context map depicting all properties and land uses within a one thousand foot (1,000') radius (minimum) of the project site, whether such uses are located in Lowell or within surrounding communities, including but not limited to all educational uses, daycare, preschool and afterschool programs.
3. The applicant shall provide a Transportation Demand Management Plan to establish the impacts of the peak traffic demand and shall adequately address issues of traffic demand, parking, and queuing, especially at peak periods at the facility, and its impact on neighboring uses. The transportation demand management plan shall also model expected origin and frequency of client and employee trips to the site, the expected modes of transportation used by clients and employees, and the frequency and scale of deliveries to and from the site.
4. The applicant shall submit a security plan that has been reviewed and approved by the Lowell Police Department that indicates that the site is designed as such that it provides convenient, safe and secure access and egress for clients and employees arriving to and leaving from the site using all modes of transportation, including drivers, pedestrians, bicyclists and public transportation users. The applicant shall also submit a security plan for review and approval by the LPD for its transportation vehicles if applicable to their license issued by the Massachusetts Cannabis Control Commission or Massachusetts Department of Public Health.
5. Designation of a single on-site staff member as the community liaison with direct interaction with on-site security and City police.
6. The applicant shall submit a secure solid waste disposal and recycling plan to be approved by Solid Waste and Recycling, Lowell Fire Department, and Lowell Police Department.”

3. Amend ARTICLE XII: TABLE OF USES, by inserting a new use as follows:

| | SSF | SMF | SMU | RR | TSF | TTF | TMF | TMU | NB | USF | UMF | UMU | DMU | HRC | INST | OP | LI | GI |
|-----------------------------|-----|-----|-----|----|-----|-----|-----|-----|----|-----|-----|-----|-----|-----|------|----|----|----|
| "12.9.s Cultivation | N | N | N | PB | N | N | N | N | N | N | N | N | N | PB | N | PB | Y | Y |
| 12.8.f Testing | N | N | N | PB | N | N | N | N | N | N | N | N | N | PB | PB | PB | Y | Y |
| 12.4.n Med Treatment Center | N | N | N | PB | N | N | N | N | N | N | N | N | N | N | PB | PB | N | N |
| 12.4.o Rec Dispensary | N | N | N | PB | N | N | N | N | N | N | N | N | N | N | N | PB | N | N" |

4. Amend Section 11.4.2 Applicability. The following types of activities and uses on a single lot or on contiguous lots in common ownership require site plan review: By inserting a new section 11.4.2 (8) as follows:

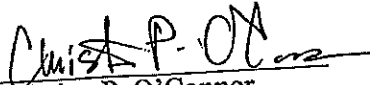
"8. Registered Marijuana Uses"

5. Amend 6.1.4 Table of Parking Requirements By inserting the following new sections into said table:

- "6.1.4(9) (t) Cultivation, where permitted, 1space/1,200 SQ FT
- 6.1.4(8) (f) Testing, where permitted, 1space/1,000 SQ FT
- 6.1.4(4) (1) Medical Treatment Center, where permitted, 1space/500 SQ FT
- 6.1.4(4) (m) Recreational Dispensary, where permitted, 1space/500 SQ FT"

6. This Ordinance shall take effect upon its passage in accordance with Section 1.7 of the "Lowell Zoning Ordinance" and the provisions of Chapter 43 and 40A of the General Laws of Massachusetts.

APPROVED AS TO FORM:


 Christine P. O'Connor
 City Solicitor

Diane N. Tradd
Assistant City Manager/DPD Director

R. Eric Slagle
Director of Development Services

Shaun Shanahan
Building Commissioner

April 5, 2018

Acting City Manager Michael Geary

Mayor William Samaras

Members of the City Council

Re: Ordinance-Amend Zoning - Marijuana Uses

Dear Mr. Manager, Mayor Samaras and Members of the City Council:

The attached Ordinance would submit to the Planning Board the attached amendment to the Lowell Zoning Ordinance, which would regulate Marijuana uses in the City, both for medical and recreational purposes. These amendments have been reviewed by the Zoning Subcommittee.

Yours very truly,



R. Eric Slagle

Director, Development Services