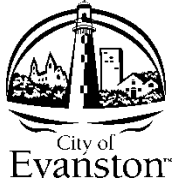


Cannabis Consumption Lounges
Text Amendment
23PLND-0015

LUC Recommending Body



Memorandum

To: Chair and Members of the Land Use Commission

From: Melissa Klotz, Zoning Administrator

CC: Sarah Flax, Interim Director of Community Development
Elizabeth Williams, Planning Manager

Subject: Zoning Text Amendment, Cannabis Consumption Lounges
23PLND-0015

Date: March 17, 2023

Request

A City-initiated Text Amendment to the Zoning Ordinance, Title 6 of the Municipal Code, to establish a zoning definition for Cannabis Consumption Lounges (Section 6-18, Definitions), special regulations for Cannabis Consumption Lounges (Section 6-4-11, Special Regulations Pertaining to Cannabis Related Uses), and to establish Cannabis Consumption Lounges as eligible special uses in certain non-residential zoning districts (Sections 6-9 through 6-15). The Land Use Commission makes a recommendation to the City Council, the determining body for this case in accordance with Section 6-3-4-6 of the Evanston Zoning Code and Ordinance 92-O-21.

Notice

The Application cited above has been filed in conformance with applicable procedural and public notice requirements including publication in the Evanston Review on March 2, 2023.

General Information

Applicant: City-initiated text amendment

Analysis

Background

The State of Illinois legalized the sale and consumption of recreational cannabis effective January 1, 2020. In preparation of that, the City of Evanston established zoning regulations for cannabis uses via Ordinances 126-O-19, 23-O-20, and 31-O-20. The regulations contemplate all types of cannabis businesses (dispensary, cultivation center, infuser, processor, craft grower, and transporter) that are allowed within Illinois except for consumption lounges.

At the January 3, 2023, Human Services Committee, Councilmember Burns requested

an initial discussion to determine what amendments would be needed to the City Code to allow cannabis consumption lounges. The discussion identified a need to amend the Evanston Clear Air Ordinance ([Chapter 18 of Title 8, Health and Sanitation](#)). Committee members noted concerns about air filtration, associating cannabis lounges with the reparations program, and how a cannabis lounge would function similar to a bar that serves alcohol but would be safer. The Committee agreed to bring the agenda item back to the Human Services Committee as an actionable item.

On February 6, 2023, Human Services Committee, draft Ordinance 21-O-23 to amend the Evanston Clean Air Ordinance to allow cannabis consumption lounges when located within a licensed cannabis dispensary (as required by the [Smoke Free Illinois Act](#)) was reviewed and recommended for approval to the City Council. The ordinance is now pending introduction and action at City Council and will proceed on a future agenda in conjunction with this related zoning text amendment.

Proposal

Cannabis consumption lounges, or any type of smoking lounges, are not currently allowed within Evanston. Consumption lounges are indoor smoking facilities that are exempt from the typical Smoke-Free Illinois Act standards and allow indoor smoking, but are required to locate within a stand-alone building, have limitations on door and window openings so that smoke does not emanate from a location, and require extensive HVAC ventilation to circulate clean air indoors and limit nuisance odors outdoors. Consumption lounges may serve tobacco, hookah, cigars, etc. (not just cannabis), and are not currently allowed within Evanston. The state allows consumption lounges (including cannabis use) at Retail Tobacco Stores (smoke shops), which are not a listed eligible zoning use in Evanston.

The CDC notes cannabis delivers tetrahydrocannabinol (THC) and other cannabinoids to the body. Cannabis smoke delivers many of the same substances researchers have found in tobacco smoke, which is harmful to the lungs and cardiovascular system. The American Lung Association states “no one should be exposed to secondhand marijuana smoke” and the CDC advises secondhand marijuana smoke contains many of the same toxic and cancer-causing chemicals found in tobacco smoke, even in higher amounts in some of the chemicals. The Chair of the Evanston Health Advisory Council strongly opposes cannabis consumption lounges in Evanston due to the associated negative health effects. Consumption lounges may be contrary to the overall goals and objectives of the City’s Clean Air Ordinance and the EPLAN’s overall intent to advance health throughout the community.

While consumption lounges are not beneficial to physical health, they may provide other benefits including the following:

- Providing a legal location to smoke cannabis products or other smoking products for individuals who reside in non-smoking buildings (including many multifamily apartment buildings and Northwestern University dorms).
- Providing a legal location to smoke cannabis products or other smoking products that is not within the vicinity of others who do not want/should not receive secondhand smoke (ie. minors or other family members).
- Providing additional cannabis-related business opportunities within Evanston.
- Reducing illegal cannabis smoking in outdoor public areas such as parks and

alleys.

- Providing additional tax revenue to the City’s Reparations Fund.
- Providing a legal location for cannabis use as an alternative to other substance use such as alcohol.

Current Regulations

The Zoning Ordinance does not currently allow any indoor smoking use. Other cannabis uses in Evanston (including dispensaries) are specifically prohibited from indoor smoking, and Retail Tobacco Stores (smoke shops) are not eligible uses listed in the zoning code.

The Zoning Ordinance currently regulates a myriad of cannabis uses including dispensaries, cultivation centers, infusers, processors, craft growers, and transporters, but does not list consumption lounges as an eligible zoning use. Evanston has one dispensary approved and in operation at 1804 Maple Avenue, one transporter special use that was approved but never operated, and since expired for 1701 Howard Street, and one special use application in process for a dispensary at 100 Chicago Avenue (tentative for LUC in April or May). Staff is also aware of interest in locating a dispensary with a consumption lounge at 1633-1635 Chicago Avenue but has not received any related applications to date. [Section 6-4-11, Special Regulations Pertaining to Cannabis Related Uses](#), is summarized in the chart below. Dispensaries, as the highest-intensity customer-interacting cannabis use, are likely the most similar to consumption lounges:

	Permitted Use	Special Use	Distance Requirement	Hours of Operation
Dispensaries		RP, Ds, Cs, B1a, B2, B3, O1	1,500’ – dispensary 500’ – schools	10am – 8pm daily
Cultivation Centers		Is	1,500’ – any cannabis use 2,500’ – schools, daycare center, daycare home, group daycare home, part-day child care facility, or residential zoning district	8am – 8pm daily
Infusers	Is	RP, Ds, C,s Ms, B1a, B2, B3, WE1, O1	1,500’ – any cannabis use 500’ – schools	8am – 8pm daily
Processors	Is	M, WE1	1,500’ – any cannabis use 500’ – schools	8am – 8pm daily
Craft Growers	Is	RP, Ds, Cs, Ms, B1a, B2, B3, O1, WE1	1,500’ – any cannabis use 500’ – schools	8am – 8pm daily
Transporters	Is	RP, Ds, Cs, Ms, B1a, B2, B3, WE1, O1	1,500’ – any cannabis use 500’ – schools	8am – 8pm daily

Schools = public or private elementary, middle, or high school

Distance Requirement = property line to property line

Of note, the B1 District is not an eligible location for a dispensary specifically due to B1 proximity to the Northwestern University campus. Additional regulations include allowing the co-location of cannabis uses at one site (Section 6-4-11-9) and prohibition of on-site consumption of cannabis at any Evanston business (cannabis related business or not) (Section 6-4-11-10).

Since consumption lounges include indoor smoking, regulations within Title 3, Business Regulations, for related uses such as cigarettes, tobacco, and liquid nicotine products, may be used to establish appropriate consumption lounge regulations. [Section 3-14-5, Location Restrictions](#), includes a 150 foot distance requirement for the sale, offer, give away, or delivery of cigarettes, tobacco and liquid nicotine products to any public or private elementary, middle, or high school (except for the Park School and Rice Children's Center, and private educational institutions located in any downtown zoning districts).

While the State of Illinois regulates most cannabis related uses and issues licenses accordingly, there are no state regulations specific to cannabis consumption lounges beyond the Smoke Free Illinois Act that currently requires cannabis consumption lounges to co-locate within cannabis dispensaries or locate within Retail Tobacco Stores. Retail Tobacco Stores are defined by the state as retail establishments that derive more than 80% of gross revenue from the sale of tobacco, plants, herbs, cigars, cigarettes, pipes, and other smoking devices for burning tobacco and related smoking accessories.

Other Communities

While not yet a commonly business type, some communities in Illinois currently regulate and allow consumption lounges and/or cannabis consumption lounges in the following ways:

Mundelein: Located 28 miles northwest of Evanston and as the closest municipality to legalize cannabis consumption lounges. [RISE Mundelein Lounge](#) opened on April 20, 2022 and is currently in operation as both a dispensary and consumption lounge. Dispensaries are a permitted use in the M1, M-MU, C2, and C4 districts. Mundelein does not list consumption lounges as an eligible zoning use, and instead allows on-site consumption as an accessory use to a dispensary. The business license requirements (not zoning requirements) for Mundelein limit the municipality to one dispensary license (and also limit operations to 6am-10pm). As the one licensed dispensary, Rise Mundelein Lounge requested on-site consumption (See [RISE Expansion-On Site Premises Cannabis Consumption](#) towards the bottom of the webpage) and was granted approval by the Village Board in September 2021. Conditions imposed by the Village Board include:

1. The total consumption lounge footprint shall not exceed 1,200 square feet without permission from the Village Board.
2. Alcohol is not permitted.
3. Cannabis products consumed in the consumption lounge must be purchased at the RISE Mundelein dispensary.

4. RISE will identify designated drivers from each group and request that they stop consumption 30 minutes prior to the end of their reservation.
5. Consumption of edible cannabis products shall be prohibited within the on-premises consumption lounge.
6. RISE Mundelein must submit and adhere to a detailed operations plan to be kept on file at the Village Hall. Changes to the operations plan must be requested in writing and approved by the Zoning Administrator. The plan must address the following:
 - Hours of operation
 - Security
 - Odor mitigation
 - Customer flow
 - Reservation time limitations
 - Customer safety protocols
 - Customer communication protocol regarding impaired driving, over consumption, and ride share options
 - Lounge staff training protocol
 - Current lounge facility square footage (however expansions that cause the facility to exceed 1,200 square feet in area must be approved by the Village Board of Trustees).

DeKalb: Located approximately 75 miles west of Evanston off of I-88 and home to Northern Illinois University, which as a state university features a smoke-free campus, DeKalb allows consumption lounges. When regulations were adopted in 2021 for a variety of cannabis uses (dispensaries, transporters, craft growers, etc.), cannabis consumption lounges were not added as a zoning use. Instead, existing zoning regulations for [Retail Tobacco Stores](#) that allow indoor smoking were clarified to include indoor cannabis smoking. Zoning regulations for Retail Tobacco Stores include special use approval required in the CBD, LC, GC, ORI, LI, and HI Districts (commercial and industrial districts), a 200 foot distance requirement from residentially zoned property or property occupied by a public or private K-12 school, and a 200 foot distance requirement from any other Retail Tobacco Store. These regulations are currently being revised to include additional eligible zoning districts, add daycares and post-secondary schools to the distance requirement, and add in a stand-alone building requirement for establishments with indoor smoking. DeKalb currently has at least one Retail Tobacco Store with indoor smoking including cannabis, the [Aroma Hookah Bar](#).

Carbondale: Located at the southern end of the state and home to the University of Illinois, which as a state university features a smoke-free campus, Carbondale allows cannabis consumption lounges when co-locating within a dispensary or adjacent to one. Dispensaries are permitted uses in the SB, BPR, and BPL (business) districts. Additional consumption lounge regulations that apply via the business license (not zoning) include:

- A cannabis consumption lounge may operate during the hours that the associated dispensary is permitted to operate and up to two (2) hours after the dispensary closes.

- A licensed cannabis consumption lounge shall not permit or allow a person under the age of twenty-one (21) to enter or remain within the cannabis lounge.
- A licensed cannabis consumption lounge shall maintain such ventilation and odor control so as to not create a public nuisance.
- A licensed cannabis consumption lounge shall provide sufficient security so as to prevent the cannabis lounge from becoming a public nuisance.
- A licensed cannabis consumption lounge shall provide local law enforcement with access to recorded security camera footage upon request and shall maintain such video recordings for a minimum period of ninety (90) days.
- A licensed cannabis consumption lounge shall not permit unsealed cannabis to leave the cannabis lounge, except as approved by the Illinois Cannabis Regulation and Tax Act as amended.
- No licensee shall permit any person to enter or remain upon the licensed premise with any product containing alcohol, except as approved by the Illinois Cannabis Regulation and Tax Act as amended.

Carbondale currently has one dispensary, Consume Cannabis, who does not have an associated consumption lounge in operation. In response to a [lack of viable consumption lounge locations in Carbondale](#), some smaller surrounding communities have legalized cannabis consumption lounges including Sesser (35 miles from Carbondale) and Harrisburg (40 miles from Carbondale).

Zoning Ordinances Sections Identified for Modification

Section 6-18, Definitions – *to establish a zoning definition for Cannabis Consumption Lounge*

Section 6-4-11, Special Regulations Pertaining to Cannabis Related Uses – *to establish special regulations such as distance requirements, an operations agreement, and hours of operation for the use.*

Sections 6-9 through 6-15 (Permitted or Special Use sections within certain non-residential zoning districts) – *to establish eligible zoning districts for the use*

Department Recommendation

A proposed text amendment to establish zoning regulations for indoor smoking lounges should be considered with a lens similar to the policies/regulations established for existing cannabis use regulations such as dispensaries. If these regulations, in consideration with similar policies/regulations for tobacco sales establishments are contemplated in a zoning text amendment as suggested below, create an appropriate land use for specific zoning districts that meets the Standards for Amendments, then the Land Use Commission should provide a positive recommendation to the City Council.

One option is to establish zoning regulations that define and allow the use as an eligible accessory use, while also requiring special use approval, which is similar to how drive-through facilities are regulated by zoning:

Section 6-18, Definitions:

Consumption Lounge – A stand-alone building that is occupied for the use of indoor consumption of smoke, including but not limited to tobacco, pipe, hookah, and/or cannabis smoke or vapor, in compliance with the Illinois Clean Air Act and Smoke Free Illinois Act, as amended from time to time. A Consumption Lounge shall only be permitted as an accessory use in conjunction with another listed permitted or special use.

As proposed, the definition allows for Consumption Lounges for cannabis and non-cannabis products, but only in conjunction with another zoning use (and with special use approval per additional regulations). The only use currently listed in the Zoning Ordinance that the State allows consumption at is a Cannabis Dispensary. If the Zoning Ordinance is ever updated to include Retail Tobacco Stores (smoke shops), of which the State also allows consumption at (cannabis and tobacco), then a Consumption Lounge would become an eligible special use to a Retail Tobacco Store.

Chapters 6-9 through 6-15 (Special Use sections of each Chapter):

Establish Consumption Lounge as an eligible Special Use in the RP, Ds, Cs, B1a, B2, B3, O1 Districts (same Special Use districts as Cannabis Dispensaries – see attached) while also including language similar to how Drive-Through Facilities are regulated stating “accessory or principal use” in each eligible special use list. Although listed as an eligible special use that is accessory or principal, the zoning definition further limits the use to be in conjunction with Cannabis Dispensaries only.

Section 6-4-11, Special Regulations Pertaining to Cannabis Related Uses:

Distance Requirement – A distance requirement may not be needed since the use must be attached to a Cannabis Dispensary, which already requires a distance buffer from other dispensaries and schools. However, if a distance requirement is necessary or a distance requirement that includes daycares and residential districts is needed, one could be established that is similar to the existing 150 foot distance requirement for the sale, offer, give away, or delivery of cigarettes, tobacco and liquid nicotine products to any public or private elementary, middle, or high school (except for the Park School and Rice Children’s Center, and private educational institutions located in any downtown zoning districts). In a quasi-urban environment such as Evanston, a minimal distance requirement may be appropriate for the use (in conjunction with the existing Cannabis Dispensary distance requirement) when also considering all smoking occurs indoors and is filtered with extensive HVAC so that the smoke or aroma is not obvious from the outdoors (as required by the Smoke Free Illinois Act).

Operations Agreement:

It is beneficial to require an operations agreement that the applicant must adhere to that addresses concerns such as security, odor mitigation, customer flow/reservations, customer safety protocols, safe driver requirements, staff training, etc. Changes to an operations agreement that are not consistent with existing special use approval would require an amendment including a new public hearing with the Land Use Commission and a final determination by the City Council.

Hours of Operation:

8am – 10pm (of note, all other cannabis uses as listed in the Evanston Zoning Ordinance must close by 8pm. Other communities that allow consumption lounges typically feature hours of operation until 10pm). 10pm is earlier than most restaurant on-premises liquor licenses allow.

Section 6-4-11-10, On-site Consumption of Cannabis, should be modified in order to allow the new use and replaced with:

On-site consumption of cannabis shall be prohibited at any business establishment or cannabis related business within the City, including at any cannabis related business, except for the legal on-site use at an approved Consumption Lounge in conformance with Section 6-4-11-8.5.

Standards for Approval - Zoning Text Amendment

For the Land Use Commission to recommend that the City Council adopt the proposed text amendment, the Land Use Commission must find the Standards for Amendments (Section 6-3-4-5) met:

The wisdom of amending the text of the Zoning Ordinance or the Zoning Map is a matter committed to the sound legislative discretion of the City Council and is not controlled by any one standard. In making their determination, however, the City Council should, in determining whether to adopt or deny, or to adopt some modification of the Land Use Commission's recommendation consider, among other factors, the following:

- A. Whether the proposed amendment is consistent with the goals, objectives, and policies of the Comprehensive General Plan, as adopted and amended from time to time by the City Council.
- B. Whether the proposed amendment is compatible with the overall character of existing development in the immediate vicinity of the subject property.
- C. Whether the proposed amendment will have an adverse effect on the value of adjacent properties.
- D. The adequacy of public facilities and services.

Action by the Commission

After making findings of fact as to whether or not the proposed text amendment meets the aforementioned Standards, the Land Use Commission may make a recommendation or recommendations to the Planning & Development Committee of the City Council to approve, approve with modifications, or deny the proposed text amendment regarding Consumption Lounges. The Land Use Commission is the recommending body and the City Council is the determining body pursuant to Section 6-3-4-6 of the Evanston City Code.

Attachments

[Smoke Free Illinois Act](#)

[Evanston Clean Air Act](#) - existing City Code Section 8-18 (Health)

[Special Regulations Pertaining to Cannabis Related Uses](#) - existing City Code Section 6-4-11 (Zoning)

[Human Services Committee Packet - January 3, 2023](#)

[Human Services Committee Packet - February 6, 2023](#)

Existing Eligible Uses in Proposed Districts:

[RP District](#)

[D Districts Summary Sheet](#)

[C Districts Summary Sheet](#)

[B Districts Summary Sheet](#)

[O1 District](#)